

ROYAL COMMISSION INTO THE MANAGEMENT
OF POLICE INFORMANTS

Held in Melbourne, Victoria

On Wednesday, 31 July 2019

Led by Commissioner: The Honourable Margaret McMurdo AC

Also Present

Counsel Assisting:	Mr C. Winneke QC Mr A. Woods Ms M. Tittensor Mr M. Allen
Counsel for Victoria Police	Mr S. Holt QC Ms R. Enbom Ms K. Argiropoulos
Counsel for State of Victoria	Mr C. McDermott
Counsel for Nicola Gobbo	Mr P. Collinson QC Mr R. Nathwani
Counsel for DPP/SPP	Mr P. Doyle.
Counsel for CDPP	Ms E. Fitzgerald
Counsel for Handlers	Mr G. Chettle Ms L. Theis
Counsel for Mr J. Higgs	Ms C. Dwyer
Counsel for Faruk Orman	Ms C. Lloyd
Counsel for Pasquale Barbaro	Mr C. Wareham

10:08:28 1 COMMISSIONER: Yes, the Commission is continuing in private
10:08:30 2 hearing. I note the appearances for the Commission are as
10:08:36 3 of yesterday.

10:08:37 4
10:08:37 5 MR WINNEKE: Yes Commissioner.

10:08:38 6
10:08:38 7 COMMISSIONER: The same for Ms Gobbo and Victoria Police,
10:08:42 8 the State of Victoria, the SDU handlers, the DPP and the
10:08:48 9 office of the DPP and the Commonwealth DPP. Also I note
10:08:54 10 Mr Barbaro's representation is as of yesterday. Mr Orman's
10:09:00 11 representation is now Mr Koh, solicitor. I don't think
10:09:05 12 there's anyone for [REDACTED] [REDACTED] here today. There is? No one
10:09:13 13 here for [REDACTED] [REDACTED]. And Mr Higgs - Ms Dwyer, you're for
10:09:20 14 Mr Higgs again. Thank you.

15
10:09:22 16 Before we start there are some comments I want to
10:09:27 17 make, Mr Holt. Victoria Police has had at least four
10:09:34 18 weeks' notice of the Commission's investigation during this
10:09:40 19 tranche of hearings. Since Sunday at 1.42 pm, 2290
10:09:47 20 documents have been produced by Victoria Police over three
10:09:49 21 tranches. Last night at 7.17 pm solicitors assisting
10:09:53 22 received a further tranche of handler emails relevant to
10:10:00 23 upcoming witnesses which you foreshadowed yesterday. The
10:10:00 24 metadata underlying the documents reveals that Victoria
10:10:04 25 Police identified a significant number of these documents
10:10:05 26 many months ago. For example, there are approximately 22
10:10:10 27 documents related to the establishment of the SDU, the very
10:10:13 28 topic that this part of the Commission's investigations
10:10:17 29 that have been automatically re-dated as 8 April 2019,
10:10:22 30 rather than the correct date. These documents will need to
10:10:25 31 be reproduced by Victoria Police. A further 400 documents
10:10:29 32 also appear to have been opened and reviewed in around
10:10:32 33 April prior to being converted to PDF and despite this, so
10:10:37 34 that Victoria Police was clearly aware of these documents
10:10:39 35 at that time, was only produced on the weekend.

36
10:10:43 37 The documents cover a range of topics relevant to
10:10:47 38 current and past hearings and generally speaking have not
10:10:50 39 been linked to specific Notices to Produce, although they
10:10:54 40 are clearly relevant to the various Notices to Produce that
10:10:59 41 have been given to Victoria Police.

42
10:11:00 43 In addition to extracts of diaries of the previous
10:11:03 44 witness, Jason Kelly, a suite of emails relevant to current
10:11:07 45 witnesses and other handlers Victoria Police has produced
10:11:10 46 documents relevant to the Commission's current
10:11:13 47 investigation, including the establishment of the SDU, the

10:11:17 1 2012 audit of the SDU and Petra and Purana Task Forces and
10:11:23 2 Operation Loris. Many of these documents in fact relate to
10:11:27 3 the first Notice to Produce dated back in January this
10:11:33 4 year.
5

10:11:39 6 Despite agreed protocols with Victoria Police, which
10:11:42 7 are not being observed, Victoria Police is continuing to
10:11:46 8 produce documents immediately prior to witnesses that they
10:11:48 9 may be relevant to which makes the Commission's task
10:11:52 10 extremely difficult and will result in a recalling of
10:11:56 11 witnesses.
12

10:11:58 13 Now, I know it's extremely busy and that you have this
10:12:03 14 huge amount of material that is not perhaps easily
10:12:11 15 searchable and I accept that you and your team are
10:12:14 16 certainly trying to do everything you can do, but it's not
10:12:23 17 satisfactory, the production of documents, and could I
10:12:27 18 remind Victoria Police yet again of their continuing
10:12:30 19 obligation to disclose relevant documents in a timely
10:12:33 20 fashion as soon as they become aware of their relevance to
10:12:37 21 the Commission, and in compliance with the document
10:12:40 22 management protocol.
23

10:12:41 24 MR HOLT: Thank you Commissioner. And there are a number
10:12:43 25 of issues the Commissioner's raised which I will need to
10:12:48 26 take back specifically in relation to the matters that have
10:12:51 27 recently been disclosed and I undertake to do that.
28

10:12:53 29 COMMISSIONER: Thank you Mr Holt, I'll appreciate your
10:12:55 30 reporting back to the Commission when you're ready to do
10:12:58 31 so.
32

10:12:59 33 MR HOLT: Of course Commissioner. Can I raise one matter
34 while I'm on my feet?
35

36 COMMISSIONER: Yes.
37

10:13:00 38 MR HOLT: That is Exhibit 81B, which is the list of
10:13:05 39 pseudonyms, number 38 - - -
40

10:13:09 41 COMMISSIONER: Can you just give me a minute while I find
10:13:12 42 it.
43

10:13:14 44 MR HOLT: Yes. Thank you, Commissioner.
45

10:13:18 46 COMMISSIONER: Number 38, yes.
10:13:19 47

10:13:19 1 MR HOLT: There is a pseudonym applied there to a person
10:13:22 2 where there in fact there should be no pseudonym applied,
10:13:25 3 the person had wrongly be thought to be a member of the SDU
10:13:28 4 at a particular point in time and they're in fact a member
10:13:29 5 of another unit, so I can now say publicly the name Glen
10:13:33 6 Owen does not need the pseudonym [REDACTED]
10:13:39 7 Winters. I apologise for that oversight but thought it
8 better that we remove names rather than having them left on
10:13:41 9 there, Commissioner.
10:13:41 10
10:13:41 11 COMMISSIONER: Absolutely. Thank you very much for that,
10:13:42 12 Mr Holt. That will be removed from 81B which remains a
10:13:49 13 moving feast.
10:13:50 14
10:13:50 15 MR HOLT: Thank you Commissioner.
10:13:51 16
10:13:53 17 MR CHETTLE: Yesterday you'll notice Mr White referred to
10:13:57 18 that witness and was given the pseudonym, so maybe the
10:14:02 19 transcript can be unpseudonymised, if that's a word.
10:14:08 20
10:14:08 21 COMMISSIONER: I don't think it matters, does it? The
10:14:10 22 transcript is the transcript. I'll tell the witness that
10:14:12 23 there's no need to use a pseudonym when he gets back on.
10:14:17 24 We don't need to alter the transcript in this case for
10:14:20 25 once. Thanks Mr Chettle.
26
10:14:22 27 We'll resume now with the witness?
10:14:25 28
10:14:26 29 MR WINNEKE: Yes, ready to go, Commissioner.
10:15:10 30
10:15:10 31 COMMISSIONER: Yes. I make clear that I am able to see the
10:15:13 32 witness while he's giving his evidence. It's the only
10:15:18 33 screen that the witness is viewable on.
10:15:28 34
10:15:29 35 <SANDY WHITE, recalled:
10:15:39 36
10:15:39 37 COMMISSIONER: Good morning, Mr White, can you hear me?
10:15:45 38 He's looking puzzled. Good morning, Mr White, can you hear
10:15:48 39 me?---Yes I can, good morning, Commissioner.
10:15:51 40
10:15:51 41 And see me?---Yes.
10:15:52 42
10:15:53 43 Excellent. We'll resume your examination. There's one
10:15:57 44 matter I just need to mention to you in case it becomes
10:16:00 45 relevant again. You'll recall yesterday you were told a
10:16:04 46 pseudonym of [REDACTED] Winters for Glen Owens.
10:16:08 47 We've been told that there is no longer a need for Glen

10:16:12 1 Owen's name to be pseudonymised, you can refer to him by
10:16:17 2 his real name if that comes up in future?---Thank you.
10:16:20 3
10:16:20 4 Yes, Mr Winneke.
10:16:21 5
10:16:22 6 MR WINNEKE: Yes thanks, Commissioner. Now, Mr White, I
10:16:28 7 was going to ask you yesterday about some documents which
10:16:32 8 were - well perhaps what I'll do, I was going to ask you
10:16:39 9 about some documents which you received from various other
10:16:46 10 jurisdictions and as I understand it, I'm not going to ask
10:16:51 11 you in detail at this stage about those documents, but as I
10:16:54 12 understand it you received documents from the United
10:16:59 13 States, Canada, other jurisdictions in Australia and the
10:17:05 14 United Kingdom and the Republic of Northern Ireland or the
10:17:11 15 Republic of Ireland?---I think it was the PSNI which would
10:17:19 16 be Northern Ireland.
10:17:19 17
10:17:22 18 With the benefit of those documents did you prepare
10:17:28 19 Standard Operating Procedures which would specifically
10:17:32 20 apply to the Dedicated Source Unit as it was then known for
10:17:37 21 the purposes of the trial?---They were assisted, yes.
10:17:43 22
10:17:44 23 Did you put together a standard operating procedure which
10:17:49 24 was operative during the period of the trial when it was
10:17:53 25 called the Dedicated Source Unit which ran I think from
10:17:58 26 about November of 2004 into May or thereabouts of
10:18:05 27 2005?---Yes.
10:18:06 28
10:18:08 29 Had you previously been involved in the preparation of a
10:18:17 30 significant and important policy document which was
10:18:23 31 fundamental to the operation of a particular unit within
10:18:26 32 Victoria Police?---Sorry, are you talking about a specific
10:18:34 33 incident or are you saying had I ever prior to this been
10:18:38 34 involved in something like that?
10:18:39 35
10:18:40 36 Yeah, that's right. Had you put together a policy document
10:18:43 37 before? I mean was that your area of expertise, putting
10:18:47 38 together instructions and policy documents?---No.
10:18:50 39
10:18:53 40 The Standard Operating Procedures, as I understand it, the
10:19:00 41 Dedicated Source Unit, they were your responsibility and
10:19:07 42 the responsibility of Mr Owen, is that right?---If you're
10:19:14 43 referring to the SOPs for the Dedicated Source Unit.
10:19:20 44
10:19:21 45 Yes?---Pilot, the responsibility was mine and Inspector
10:19:26 46 Calishaw.
10:19:27 47

10:19:27 1 Calishaw's, right?---I'm not sure if [REDACTED]
10:19:33 2 [REDACTED] Owen had much, if any, input into the SDU SOPs.
10:19:39 3
10:19:40 4 If you can have a look at the document called the Dedicated
10:19:46 5 Source Unit Standard Operating Procedures, and it's, the
10:19:50 6 number is IBAC.0010.0001.0689.0001, which is the opening
10:20:10 7 page. 0010.0001.0689_0001. Whilst that's downloading,
10:21:00 8 Mr White, did you - how long did it take you to prepare
10:21:08 9 that document?---I couldn't even begin to guess.
10:21:15 10
10:21:15 11 Did you do it when you were involved in the period prior to
10:21:23 12 the establishment of the DSU?---Again, I just don't know.
10:21:32 13
10:21:33 14 Did you have any assistance from Victoria Police as to how
10:21:37 15 it should be prepared, the sorts of things that should go
10:21:40 16 into the document, those sorts of matters?---I don't think
10:21:48 17 so. I've seen SOPs before in other areas.
10:21:55 18
10:21:56 19 Yes. You hadn't prepared any before yourself?---No.
10:22:00 20
10:22:03 21 How did you determine what sorts of things should go into
10:22:06 22 the SOPs?---I don't really know the answer to that. It's,
10:22:19 23 you'd have to look at the SOPs to see what is in there.
10:22:22 24
10:22:23 25 Yes?---The SOPs are not, they're not policy, not
10:22:26 26 organisational policy.
10:22:27 27
10:22:28 28 No?---Sometimes they do contain policy statements I think
10:22:32 29 but they're generally rules, guidelines as to how the
10:22:36 30 office will work, if you like it's an admin type document
10:22:40 31 for, you know, how the office will run administratively.
10:22:47 32
10:22:47 33 Yes. Did you receive any guidance from the policy
10:22:51 34 documents? Were any policy documents available to you
10:22:54 35 which enabled you to put together the operation procedure
10:22:57 36 manual?---I don't know, you'd have to look at the SOPs and
10:23:02 37 see if there are references to policy.
10:23:04 38
10:23:05 39 Do you recall that there was a Chief Commissioner's
10:23:09 40 instruction of 03/05?---If there was a Chief Commissioner's
10:23:20 41 instruction at that time I imagine I would have seen it.
10:23:24 42
10:23:24 43 Didn't you have some involvement in the preparation of that
10:23:27 44 policy document as well?---I'm not sure what that policy
10:23:31 45 document is.
10:23:31 46
10:23:31 47 Let's deal with the SOP first anyway. It's still

10:23:35 1 downloading, righto. Did you feel you had sufficient
10:23:48 2 assistance in putting together these important
10:23:52 3 documents?---I don't have a recollection about my view
10:23:55 4 about that at the time.
10:23:58 5
10:23:58 6 Do you think now with hindsight you had sufficient
10:24:01 7 assistance?---I've got no idea.
10:24:07 8
10:24:11 9 There's very little in your document, the standard
10:24:14 10 operating procedure, which would relate to the use of
10:24:20 11 confidential information, information from sources who had
10:24:30 12 obligations of confidentiality, nothing of those sorts of
10:24:34 13 things in your Standard Operating Procedures. Now, with
10:24:38 14 the benefit of hindsight do you think those sorts of
10:24:41 15 matters should have been addressed in your Standard
10:24:44 16 Operating Procedures?---With the benefit of hindsight, yes.
10:24:47 17
10:24:49 18 I mean you did have - okay, we've got the SOP up. Just if
10:24:54 19 we can move through to the next page. Do you see that
10:25:03 20 opening page there?---Yes.
10:25:05 21
10:25:06 22 Move to the next page. The next page. "Aim of the
10:25:12 23 document is to provide guidance in the application of
10:25:15 24 policy and standard procedures for the Dedicated Source
10:25:18 25 Unit to ensure quality, consistency and continuous
10:25:25 26 improvement", et cetera, "best practice", is that your
10:25:27 27 document, is that the SOP that you produced?---I think it
10:25:31 28 is.
10:25:31 29
10:25:31 30 Move to the next page. There's a table of contents. We
10:25:35 31 slip through that to the introduction. If we keep going
10:25:45 32 through to, past the - keep going. We're on p.7 of the
10:25:54 33 document. "Principal policing must be the dominant ethos
10:25:59 34 within human source management" and then we've got a
10:26:03 35 quotation. [REDACTED]
10:26:07 36 [REDACTED]
10:26:10 37 [REDACTED]
10:26:14 38 [REDACTED]
10:26:20 39 [REDACTED]
10:26:21 40 [REDACTED], and that's a
10:26:23 41 quotation from a [REDACTED]. I take it that is your,
10:26:31 42 that's something that you put together?---Yes.
10:26:35 43
10:26:35 44 And it's clearly indicative of the fact that you've had
10:26:40 45 access to other documentary material?---I'm assuming so
10:26:46 46 because that footnote, I can't see who is credited with
10:26:51 47 that document, but it clearly came from another document.

10:26:55 1
10:26:56 2 We don't need to go into those at this stage but what it
10:27:01 3 does say is that, "Members of the Dedicated Source Unit are
10:27:04 4 required to maintain the highest ethical and professional
10:27:07 5 standards when managing and handling human sources. The
10:27:10 6 SOPs provide guidelines that recognise the high level of
10:27:13 7 risk attached to human source operations", do you see that?
10:27:18 8 If we go over the page, "Dedicated Source Unit shall
10:27:23 9 provide a secure and ethical environment for the
10:27:27 10 cultivation, recruitment and operational management of
10:27:30 11 human sources of intelligence and this will be achieved
10:27:33 12 through the employment of experienced, properly trained
10:27:36 13 personnel working to the requirements of an informed and
10:27:39 14 supportive management demanding the highest standards of
10:27:43 15 integrity". If we can stop there for a moment. Did you
10:27:49 16 have any involvement in the choosing of members of the
10:27:54 17 teams, or members of your unit or the unit that you were to
10:28:00 18 become in effect at least operationally in charge
10:28:06 19 of?---Yes.
10:28:07 20
10:28:09 21 Did you in fact choose the people?---So for the pilot - - -
10:28:15 22
10:28:16 23 Bear in mind we're not using actual names?---Yes.
10:28:20 24
10:28:20 25 Yes?---For the pilot program I chose, I think I had [REDACTED]
10:28:29 26 handlers who were [REDACTED], I chose [REDACTED] of
10:28:33 27 them.
10:28:33 28
10:28:33 29 Yes?---And we had one analyst, [REDACTED].
10:28:38 30
10:28:38 31 Yes?---Who was recommended to me.
10:28:41 32
10:28:41 33 Right. Those people operated with you throughout the
10:28:47 34 period of the pilot, is that right?---Yes.
10:28:49 35
10:28:50 36 And did those people operate in accordance with this
10:28:53 37 standard operating procedure?---Yes.
10:28:56 38
10:29:01 39 When the SDU commenced, did you still have those same
10:29:08 40 people or was it a different make up at that
10:29:17 41 stage?---Ultimately we had more people but the original
10:29:21 42 people were still there I think when it became the SDU.
10:29:25 43
10:29:25 44 Right. Did you choose, were you involved in choosing the
10:29:30 45 people with the additional crew?---I was involved in the
10:29:34 46 process, yes.
10:29:35 47

10:29:37 1 Did you choose all of those people?---Yes.
10:29:43 2
10:29:48 3 There's reference to - in your statement at paragraph 69,
10:29:55 4 "The early stages, the staffing consists of one team. All
10:30:01 5 members of the team were part of the pilot project with the
10:30:06 6 exception of the analysts", and the team consisted of [REDACTED]
10:30:09 7 controller, a [REDACTED], yourself, [REDACTED] handlers -
10:30:12 8 - -
10:30:12 9
10:30:12 10 MR HOLT: Excuse me, can I just approach my learned friend
10:30:15 11 for a moment?
10:30:16 12
10:30:17 13 COMMISSIONER: Of course.
10:30:44 14
10:30:48 15 MR WINNEKE: In any event, within the team at the initial
10:30:52 16 stage was Officer Black, Officer Peter Smith, Officer Green
10:30:56 17 and an Officer Paige, is that right?---If you just bear
10:31:04 18 with me, I'm just looking at those pseudonyms. I'm not
10:31:09 19 familiar with them all yet. So Black, Smith, Green and
10:31:13 20 Paige, yes, that's right.
10:31:14 21
10:31:18 22 Is it the case that each of those people worked effectively
10:31:25 23 within the pilot project?---Yes.
10:31:28 24
10:31:31 25 Were there any issues with respect to any of those
10:31:35 26 people?---Ultimately Detective Paige, he left the unit,
10:31:43 27 well I told him to leave the unit.
10:31:46 28
10:31:46 29 Yes. Was there an issue, without going into detail -
10:31:53 30 perhaps it's a matter for you, but there was an issue with
10:31:55 31 respect to Mr Page and you felt that it wasn't appropriate
10:32:01 32 for him to be within the unit, is that right?---That's
10:32:04 33 right.
10:32:04 34
10:32:06 35 Do you know whether Mr Page has made a statement to this
10:32:10 36 Royal Commission?---I understand he's made a statement,
10:32:16 37 yes.
10:32:16 38
10:32:16 39 Mr Page was critical of the idea of using a solicitor as a
10:32:23 40 human source, do you understand that?---I had heard that
10:32:30 41 that's something that he's said, I'm not sure if it's in
10:32:34 42 his statement, but that's news to me.
10:32:37 43
10:32:37 44 It's news to you?---He never expressed any criticism of our
10:32:44 45 management of that source or our intention to manage that
10:32:49 46 source.
10:32:49 47

10:32:49 1 Can I ask you this: was Officer Paige a member of the
10:32:53 2 Dedicated Source Unit, or the SDU I think as it then was,
10:32:58 3 when Ms Gobbo in fact was brought on board?---I'm not sure.
10:33:05 4 I would say he wasn't. I can't exactly remember when he
10:33:11 5 left the unit.
10:33:12 6
10:33:13 7 The effect of his statement is that he was aware of it and
10:33:17 8 he thought that it was - I'll be specific about this, but
10:33:25 9 as a general proposition what I want to put to you, that he
10:33:29 10 was critical of the use of a solicitor. Now, do you say
10:33:34 11 you had any discussion with any of your members at around
10:33:39 12 the time of the introduction of Ms Gobbo as a human source
10:33:43 13 about whether or not it was an appropriate thing to
10:33:51 14 do?---We had discussions about every source we took on both
10:33:55 15 before and during, on a very regular basis, so we
10:33:59 16 definitely would have spoken about her. In terms of being
10:34:02 17 critical about taking her on, I just want to reinforce
10:34:06 18 this, Detective Paige never spoke to me about being
10:34:10 19 critical of that. Nor did the other members in terms of
10:34:14 20 any criticism about it.
10:34:16 21
10:34:17 22 Right.
10:34:17 23
10:34:18 24 MR CHETTLE: Commissioner, if it's going to be put that
10:34:20 25 Mr Page said he was critical of that, and it has now been
10:34:23 26 put twice, it should be put in my submission what he said
10:34:25 27 in his statement.
10:34:26 28
10:34:26 29 MR WINNEKE: I'm going to.
10:34:28 30
10:34:28 31 MR CHETTLE: He doesn't say that in my submission.
10:34:30 32
10:34:30 33 MR WINNEKE: I'm trying to turn up the statement. Before I
10:34:38 34 do that let me say this then: you yourself were conscious
10:34:42 35 of the fact that you had never registered a legal
10:34:47 36 practitioner before, is that right?---Yes.
10:34:49 37
10:34:51 38 And it was a matter that was something that you realised
10:34:57 39 was unusual?---Yes.
10:35:00 40
10:35:01 41 You had never heard of it being done before?---No.
10:35:07 42
10:35:10 43 There were potential issues arising from the fact that a
10:35:15 44 registered legal practitioner who was providing information
10:35:21 45 could potentially cause all sorts of issues with respect to
10:35:29 46 obtaining information that perhaps was legally
10:35:34 47 professionally privileged information. Were you conscious

10:35:37 1 of that issue at the start?---I don't - it's a memory test,
10:35:47 2 but I don't think that I actively thought that was ever
10:35:52 3 going to happen.
10:35:53 4
10:35:54 5 Yes. Did you consider the possibility that if you obtained
10:36:05 6 information from her about people for whom she was acting
10:36:09 7 that that could cause problems?---Once again that's a
10:36:14 8 memory test, I can't tell you whether I thought that at the
10:36:18 9 time. It became apparent though over time but at the
10:36:21 10 outset, I can't say that I thought of that.
10:36:24 11
10:36:25 12 What were your concerns then about registering a legal
10:36:29 13 practitioner?---There was a range of concerns I had in
10:36:34 14 relation to her, not, not specific to her being a legal
10:36:40 15 practitioner. One of the big problems with her was because
10:36:47 16 she was so connected to the gangland figures, any risk of
10:36:55 17 compromise was likely going to result in a death, so that
10:36:56 18 was the major concern at the outset. In addition to that
10:37:00 19 she was a well-known identity around Melbourne and so that
10:37:04 20 also represented a great concern for us in terms of how we
10:37:08 21 actually went about meeting her and dealing with her.
10:37:10 22
10:37:11 23 The fact that she was a legal practitioner didn't of itself
10:37:15 24 cause you concern, you didn't turn your mind to
10:37:18 25 difficulties with respect to any issues arising from
10:37:21 26 that?---I don't believe I turned my mind to issues relating
10:37:26 27 to privileged information, no.
10:37:30 28
10:37:30 29 What about information being obtained from people whom she
10:37:35 30 acted for, you didn't turn your mind to that?---Well at the
10:37:39 31 outset, Ms Gobbo is not your average lawyer. She had a
10:37:49 32 huge social network of people that were criminals. Unlike,
10:37:54 33 I think the vast majority of lawyers who would only have
10:37:58 34 criminals as clients, we knew she was socially very active
10:38:03 35 with that big network of people, many of whom were involved
10:38:07 36 in the gangland killings inquiries. My view was that all
10:38:11 37 those people that were her social contacts were fair game.
10:38:18 38
10:38:18 39 What about if she was acting for them?---Well, the record
10:38:25 40 shows that as far as people that she's acted, she was
10:38:28 41 acting for, were told on numerous occasions we don't want
10:38:33 42 any information that related to them that could be the
10:38:36 43 subject of LPP.
10:38:37 44
10:38:38 45 But you got information from her about them which was
10:38:43 46 used?---That's right, it was, because I didn't believe it
10:38:47 47 was LPP.

10:38:48 1
10:38:49 2 What about the fact she continued to act for them?---At the
10:38:53 3 outset, Mr Winneke, the aim was to get information about
10:38:57 4 people that were in that particular social circle. It
10:39:01 5 became apparent as we went along that she could also and
10:39:06 6 would provide information about people who either were or
10:39:10 7 had been clients. If it was material what we considered to
10:39:14 8 be subject to LPP we told her constantly we don't want to
10:39:19 9 know about that.
10:39:19 10
10:39:19 11 What I want to do is put to you what Mr Page says in his
10:39:25 12 statement, quite rightly Mr Chettle suggested I do so and I
10:39:31 13 will. What he says is this, "In September of 2005 after
10:39:38 14 returning from annual leave I was asked by my controller",
10:39:40 15 who was you I take it?---Sorry, what was the date?
10:39:44 16
10:39:45 17 "In September 2005 after returning from annual leave I was
10:39:48 18 asked by my controller if I would be interested in
10:39:51 19 handling, co-handling Nicola Gobbo as a human source". Do
10:39:55 20 you agree with that firstly?---I don't recall asking
10:39:59 21 Mr Page that.
10:40:01 22
10:40:01 23 That's what he says, do you take any issue with that?---No.
10:40:04 24
10:40:05 25 "I was aware that the Major Drug Investigation Division
10:40:08 26 were wanting to set up a meeting with Ms Gobbo and
10:40:12 27 introduce her handlers from the SDU", that's clearly right,
10:40:15 28 isn't it?---Yes.
10:40:16 29
10:40:18 30 "I declined the offer to do so for the following reasons.
10:40:23 31 Firstly, I had previous professional dealings with Ms Gobbo
10:40:26 32 who represented accused persons I was the informant for in
10:40:28 33 relation to child prostitution matters. Secondly, I had
10:40:33 34 previously seen and spoken to her briefly at social police
10:40:37 35 functions. One of those functions I recall was an Armed
10:40:39 36 Robbery Squad event at the Palace in St Kilda around 2001
10:40:42 37 to 2003. I recall this occasion only because she was
10:40:48 38 introduced by a former colleague and friend who was
10:40:52 39 deceased and there was joking about the AFL team that he
10:40:57 40 supported". And he says this, "I was dismayed to a degree
10:41:01 41 that VicPol were willing to utilise an underworld solicitor
10:41:05 42 to catch drug offenders amid huge significant risks in
10:41:07 43 preference to concentrating on crimes of violence against
10:41:11 44 the person because of perceived issues of integrity". At
10:41:14 45 that stage you would certainly have been aware of perceived
10:41:18 46 issues with respect to Ms Gobbo's integrity, do you agree
10:41:21 47 with that proposition?---No, I don't.

10:41:24 1
10:41:24 2 You had no belief at all that there were any issues as to
10:41:27 3 her integrity at that stage?---No.
10:41:32 4
10:41:37 5 Were you aware that - you dealt with Mr O'Brien I take it
10:41:43 6 in relation to the introduction of Ms Gobbo as a human
10:41:46 7 source?---Yes.
10:41:46 8
10:41:47 9 Were you aware that he had been sufficiently concerned
10:41:53 10 about her to seek information reports from other members of
10:41:57 11 the drug unit to enable a telephone intercept to be taken
10:42:03 12 out on her phone?---No.
10:42:05 13
10:42:06 14 That wasn't conveyed to you?---No.
10:42:11 15
10:42:11 16 He says, goes on to say, "The risks taken I believe if
10:42:14 17 Ms Gobbo was utilised as a source was the potential she
10:42:18 18 could be acting as a double agent. She was too familiar
10:42:22 19 beyond her professional capacity with known criminals and
10:42:25 20 members of Victoria Police". I take it you would agree
10:42:28 21 with that proposition?---The last sentence, yes.
10:42:30 22
10:42:31 23 What about the first one, that is - - - ?---Can you read it
10:42:35 24 to me again?
10:42:36 25
10:42:36 26 So you agree with the entirety of the sentence, "The risks
10:42:40 27 taken I believe if she was utilised as a human source was
10:42:44 28 the potential she could be acting as a double agent", I
10:42:48 29 take it you agree with that?---No.
10:42:49 30
10:42:49 31 So that isn't something you considered at any stage?---I
10:42:54 32 might have considered it but I certainly wasn't told it by
10:42:57 33 Detective Sergeant Paige.
10:42:58 34
10:42:58 35 I didn't ask if you were told it, I was asking if you
10:43:03 36 agreed with that proposition?---Was it a consideration that
10:43:07 37 she could have been a double agent, is that your question?
10:43:10 38
10:43:10 39 Yes?---And so by that I'm taking it you mean she may have
10:43:16 40 been trying to find out more information from the police
10:43:19 41 than she was actually giving, is that your suggestion?
10:43:22 42
10:43:23 43 Yes, some. Trying to get information from the police
10:43:26 44 acting as a double agent?---That, that was - I can't tell
10:43:31 45 you whether that was a consideration but it certainly seems
10:43:34 46 sensible.
10:43:34 47

10:43:34 1 It would, wouldn't it, because you understood that she was
10:43:37 2 acting for criminals?---Yes.
10:43:39 3
10:43:39 4 And she was offering her services to provide information to
10:43:43 5 you about those criminals?---She was but I don't accept
10:43:46 6 your contention that her integrity was in question.
10:43:50 7
10:43:50 8 So you never had any doubt at all about Ms Gobbo's
10:43:53 9 integrity?---Well now we go to, um, you're touching on an
10:44:03 10 area of motivations. Was there a possibility that she
10:44:06 11 didn't tell us the whole truth during two years and three
10:44:11 12 months, yes.
10:44:12 13
10:44:12 14 It was established she hadn't told you the whole truth on a
10:44:16 15 number of occasions, wasn't it?---Sorry?
10:44:18 16
10:44:18 17 It was established, you were aware that she hadn't told you
10:44:22 18 the whole truth on a number of occasions, weren't you?---I
10:44:25 19 think when it comes to the Hodson matter.
10:44:28 20
10:44:28 21 Yes?---And I haven't looked at any of this material yet,
10:44:33 22 but I think towards the end of the relationship I think she
10:44:37 23 told Petra investigators something that she hadn't told us,
10:44:42 24 which would then mean she hadn't told us the whole truth
10:44:47 25 about that.
10:44:47 26
10:44:47 27 One of the issues was you wanted to have from her details
10:44:51 28 of all of the telephone numbers that she utilised?---At the
10:44:54 29 outset?
10:44:55 30
10:44:55 31 Yes?---I can't recall whether we got all the phone numbers
10:45:01 32 that she utilised.
10:45:02 33
10:45:02 34 During the period that she was acting as a human source,
10:45:05 35 you wanted to have as much detail as to who she was dealing
10:45:09 36 with and communicating with and you wanted to have her
10:45:12 37 telephone details?---It was standard practice to get the
10:45:17 38 telephone details of sources but I can't recall from memory
10:45:23 39 whether we grabbed from her every telephone contact that
10:45:27 40 she had.
10:45:28 41
10:45:28 42 You wanted to know which telephones she was using around
10:45:31 43 the time of the Hodson murders, didn't you, because you
10:45:33 44 were getting information from her about those
10:45:37 45 matters?---Ultimately I did question her about that.
10:45:41 46
10:45:41 47 She didn't tell you the truth about those matters, did

10:45:45 1 she?---I think, this is, as I have said to you, I have not
10:45:50 2 seen this material, but from recollection late in the
10:45:52 3 relationship with her we discussed this issue about
10:45:56 4 telephone numbers and her contact with the Hodsons and/or
10:46:01 5 people that might be involved in the murder of Hodson
10:46:07 6 himself.
10:46:08 7
10:46:08 8 Yes. And you received information - - - ?---This was a
10:46:12 9 subject - can I finish?
10:46:13 10
10:46:14 11 Yes, go?---This was a subject that was raised by the Petra
10:46:17 12 investigators, who had a lot more information than I did.
10:46:21 13 Ultimately, and again this was very late in the
10:46:24 14 relationship, I did sit down with her and we had a very
10:46:27 15 robust discussion about exactly what she knew about that
10:46:30 16 issue and she did tell us, I can't remember now exactly
10:46:34 17 what it was, but she did tell us information that she had
10:46:38 18 not volunteered earlier. Having said that, I don't think I
10:46:42 19 ever sat down with her earlier and pursued her vigorously
10:46:47 20 about that particular issue. It was only after the Petra
10:46:51 21 Task Force made contact with us and we started to get some
10:46:54 22 more information about that. But I pursued that. As a
10:46:56 23 matter of fact we stayed away from it for a long time
10:47:00 24 because I think it was to be the subject of compulsory
10:47:03 25 hearings.
10:47:03 26
10:47:04 27 What I would suggest, and I'm going to go to the records, I
10:47:05 28 would suggest to you there are records which suggest that
10:47:06 29 you discovered that she had telephones registered in names
10:47:11 30 which were other than her own which she was using to
10:47:15 31 communicate between Paul Dale and other criminals such as
10:47:18 32 Carl Williams and she hadn't told you that and it's
10:47:23 33 recorded that she had concealed that information from
10:47:27 34 you?---She, I think you're talking about something that was
10:47:32 35 historical before our involvement with her.
10:47:34 36
10:47:35 37 Yes?---Her use of phones that I think were in other names,
10:47:40 38 I'm not sure on that point, but this was a matter that had
10:47:44 39 occurred quite some time before our relationship with her.
10:47:49 40 She didn't hide from us any information about phones she
10:47:52 41 had during the time we were working with her.
10:47:54 42
10:47:55 43 I suggest that's simply incorrect, she did. She didn't
10:47:58 44 tell you about those phones?---No, that was, that was a
10:48:02 45 matter that was prior to our engagement with her.
10:48:06 46
10:48:06 47 You deny that she was asked about her telephones and the

10:48:09 1 phones that she was using during the course of that period
10:48:11 2 around the time of the Hodson murders?---No, I don't deny
10:48:16 3 that, I've already told you that that conversation occurred
10:48:19 4 with her late in our relationship with her. What I'm
10:48:25 5 saying to you is she did not have hidden phones during the
10:48:28 6 time we were working with her. This hidden phone business
10:48:31 7 was something that related to incidents prior to our
10:48:35 8 engagement with Ms Gobbo.
10:48:37 9
10:48:37 10 I'm not suggesting that she did have hidden phones during
10:48:40 11 the time she was working with you, what I'm suggesting is
10:48:44 12 she did conceal information from you?---Again, I would have
10:48:51 13 to go to the record, Mr Winneke, because my recollection is
10:48:53 14 that when we did have a very forthright discussion with her
10:48:58 15 about that she told us about it.
10:49:00 16
10:49:01 17 Yes, all right. But I suggest it was only when you
10:49:05 18 confronted her with information that you had from
10:49:10 19 Petra?---That's right.
10:49:11 20
10:49:14 21 She said to you very early on that you might well perceive
10:49:21 22 her as being a stooge for the criminals for whom she
10:49:28 23 acted?---Did she?
10:49:29 24
10:49:29 25 I suggest she did. Do you not recall that?---I don't
10:49:32 26 recall that specific conversation.
10:49:34 27
10:49:37 28 In any event, what you say is, albeit Mr Page may well have
10:49:42 29 had reservations, he didn't express those reservations to
10:49:45 30 you?---No.
10:49:47 31
10:49:47 32 Did you have an environment at the SDU which enabled people
10:49:53 33 to freely express their views?---Absolutely.
10:49:59 34
10:50:00 35 If there was a view that this was inappropriate, would you
10:50:05 36 have sought it out?---Yes.
10:50:07 37
10:50:09 38 Did you have any discussions with the people in your team
10:50:13 39 at the time prior to the registration of her about issues
10:50:17 40 which might arise because she was a legal
10:50:20 41 practitioner?---Not that I recall.
10:50:21 42
10:50:21 43 Did you have any discussions with any of your superior
10:50:24 44 officers at the time as to any such issues?---Not that I
10:50:30 45 recall.
10:50:30 46
10:50:31 47 And you certainly didn't seek any legal advice about those

10:50:35 1 matters?---No.
10:50:35 2
10:50:36 3 Did you have at any stage after she was registered any
10:50:39 4 discussions with any of your crew members about any risks
10:50:43 5 that might arise because of the fact that she was
10:50:46 6 representing people in relation to whom information was
10:50:50 7 provided?---Yes.
10:50:51 8
10:50:52 9 And what was - as a general proposition, what was the basis
10:50:56 10 of those discussions?---I had a discussion with possibly
10:51:03 11 two of the members.
10:51:05 12
10:51:06 13 Yes?---About the perception that using Ms Gobbo as a human
10:51:18 14 source presents the risk that people will presume that we
10:51:21 15 were seeking to get LPP from her.
10:51:23 16
10:51:24 17 Yes?---Information that could be seen to be LPP.
10:51:26 18
10:51:26 19 That was the perception, that there might be a perception
10:51:31 20 that LPP material might be sought?---Absolutely, yes.
10:51:35 21
10:51:35 22 When was that discussion, do you recall?---I don't. I
10:51:40 23 think it would have been some time in 2006. It might have
10:51:44 24 been after [REDACTED] arrest, I'm not sure.
10:51:48 25
10:51:48 26 I think we better strike that, [REDACTED] I think.
10:51:57 27
10:51:58 28 COMMISSIONER: Yes, under the *Inquiries Act* there is a
10:52:04 29 prohibition of publication of that name that's just been
10:52:08 30 mentioned. You've got, I think Exhibit 81B before you with
10:52:14 31 pseudonyms, Mr White? No?---Commissioner, I've got a
10:52:19 32 whiteboard here with the pseudonyms on it. It was my
10:52:21 33 mistake, I apologise.
10:52:23 34
10:52:23 35 MR WINNEKE: It's not the first time, Mr White. Not yours.
10:52:27 36
10:52:27 37 COMMISSIONER: Yes, these things happen.
10:52:30 38
10:52:30 39 MR WINNEKE: So you say that there was - - -
10:52:34 40
10:52:34 41 MR HOLT: Commissioner, I apologise. In terms of that
10:52:35 42 matter that's just arisen obviously what that does is, with
10:52:38 43 the persons who are now present, link a number with a name
10:52:44 44 and could it be made clear and sought if necessary, it may
45 not be from the Commissioner's perspective, but could it be
10:52:48 46 made clear that any of that link is highly confidential and
10:52:54 47 the undertakings that those who are in the room have given

10:52:57 1 in terms of not disclosing that to other matters, to
10:53:01 2 anybody, including clients of those persons who matter,
10:53:04 3 should be made clear and express in relation to that issue.
10:53:07 4 It's a very significant issue as the Commissioner would be
10:53:10 5 aware. I can't think of any other way of remedying it, but
10:53:15 6 I would ask that the undertakings be given to extend to
10:53:18 7 that.
8
10:53:18 9 COMMISSIONER: Yes. Could I have those assurance from
10:53:22 10 those in the room, please.
10:53:22 11
10:53:23 12 MR WAREHAM: Yes, I give that undertaking.
13
10:53:25 14 COMMISSIONER: Yes, thank you.
10:53:25 15
10:53:25 16 MS DWYER: I give that undertaking.
17
10:53:28 18 COMMISSIONER: Thank you.
10:53:28 19
10:53:29 20 MR KOH: Commissioner, I give that undertaking.
10:53:31 21
10:53:32 22 COMMISSIONER: Thanks Mr Koh. For all those present in the
10:53:35 23 room, including the journalists, I remind you about the
10:53:37 24 serious matter that I mentioned yesterday about publication
10:53:39 25 or anything that could lead to the identity of these people
10:53:43 26 and the serious criminal consequences that would flow from
10:53:46 27 that.
10:53:47 28
10:53:48 29 MR COLLINSON: Commissioner, can I raise this objection, I
10:53:55 30 suppose, my understanding of the questions that my friend
10:53:58 31 asked this witness about telephone numbers and the Hodsons
10:54:02 32 and Ms Gobbo was in the context of the question of her
10:54:05 33 integrity at the time the police made the decision to go
10:54:10 34 forward with her as an informer. I just want to make the
10:54:13 35 observation that to my knowledge no issue was raised with
10:54:16 36 Ms Gobbo about the Hodsons or telephones or anything like
10:54:21 37 that until 2007, quite a long time after she commenced the
10:54:25 38 relationship.
10:54:26 39
10:54:26 40 COMMISSIONER: You'll get an opportunity to clarify that in
10:54:29 41 your examination - - -
10:54:29 42
10:54:29 43 MR COLLINSON: I suppose I only raise it because I realise,
10:54:32 44 Commissioner, one tends to sometimes feel the need to, the
10:54:35 45 subject matter may not be significant enough to return to,
10:54:38 46 so I just wanted to raise it now but perhaps I shouldn't
10:54:43 47 have.

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COMMISSIONER: That's all right.

MR WINNEKE: I concede, Commissioner, there may well have been some confusion about that. I wasn't suggesting, I certainly don't seek to suggest that at the time of the initial registration there was information about that. I'm not suggesting that. What I do suggest, Mr White, is that over time and during the course of the relationship between the SDU and Ms Gobbo it became apparent that she was not being entirely truthful with you. You can agree or disagree with that proposition?---No, I disagree with it.

And indeed it became apparent to you that instructions that you were giving to her, she would not comply with. Now do you agree or disagree with that?---I agree with that.

In particular, suggestions and/or instructions that you gave to her about whether she should act for people in relation to whom information had been provided were regularly ignored by her, do you agree with that?---Yes, I do.

If I can come back to briefly the issue with respect to [REDACTED] [REDACTED] You said that it was around that time that you first had discussions with your colleagues about the potential risks that arose because of her providing information about, for example, [REDACTED] [REDACTED] but then appearing to act for him?---No, that was not - that was not the first time. You asked me if my members had ever brought it up and I said yes, and I made reference to that particular example. I think if you look at my statement you'll see there's a clear reference to me directing Mr - sorry, [REDACTED] Green in relation to not talking or receiving information from Ms Gobbo concerning - - -

Yes - - - ?---I'm not sure if I can use that name, pseudonym.

Can I say this, Mr White, you're able to use the name, there's an issue as between Victoria Police and the Commission at this stage as to whether or not ranks can be given. I might say it's an issue which we're going to park for the moment, but can you not refer to ranks at this stage?---Yes.

Insofar as the SDU is concerned, not with respect to any

10:57:30 1 other members of Victoria Police, but just the SDU, do you
10:57:33 2 follow that?---Yes.

10:57:34 3
10:57:34 4 There's a whole lot of complicated rules in this exercise
10:57:39 5 but perhaps if you can just take the time before you answer
10:57:42 6 and think about those. That issue was a significant issue
10:57:46 7 as far as you were concerned, I suggest?---Well, not at the
10:57:53 8 outset. As I say, you can see a clear reference to it in
10:58:00 9 my statement so clearly I've recognised that Ms Gobbo
10:58:08 10 would, on occasions, volunteer information that I think was
10:58:13 11 LPP and certainly you can see that a caution, (indistinct)
10:58:22 12 about it, so clearly it was an issue that was live in my
10:58:25 13 mind and all our minds back then and I think you can, no
10:58:29 14 doubt you'll hear from the other members, everybody I think
10:58:33 15 spoke to her probably on more than one occasion about the
10:58:37 16 fact that we did not want to receive any information that
10:58:41 17 was LPP or related to her client's defence. She was
10:58:45 18 constantly told this. At the outset it wasn't recognised I
10:58:55 19 guess that it was a risk. Had it been recognised it would
10:58:59 20 have been in the initial risk assessment.

10:59:02 21
10:59:02 22 What I want you to focus upon for a moment, you seem to be
10:59:07 23 focused on LPP, I'm asking you to focus upon another issue
10:59:12 24 and that is this: if she is providing information against
10:59:15 25 the very person whom she's acting for, that creates a whole
10:59:20 26 raft of other issues, does it not?---Yes.

10:59:24 27
10:59:25 28 I mean I asked you yesterday how you'd feel if you were
10:59:29 29 being represented by someone who was actually providing
10:59:32 30 information to the police with a view to having you
10:59:35 31 convicted and I think you agreed that you would be at
10:59:41 32 least, to say the least, very upset about it?---Yes.

10:59:45 33
10:59:46 34 So I'm asking you to focus on that. That was something
10:59:49 35 which became particularly stark when [REDACTED] [REDACTED] was
10:59:54 36 arrested?---I'm sorry, is that the question?

11:00:06 37
11:00:06 38 That's the question?---Yes.

11:00:08 39
11:00:11 40 Because here you have a person who is purporting to
11:00:15 41 represent someone whilst at the same time having provided
11:00:17 42 the very information that enabled the police to arrest him
11:00:21 43 in the first place?---Yes.

11:00:25 44
11:00:25 45 I mean you'd have to agree that there is just a whole raft
11:00:29 46 of issues that arise out of that?---Well, the issue that we
11:00:38 47 recognised at that time was that that was a conflict of

11:00:43 1 interest for her. Now, in relation to receiving the
11:00:47 2 material that she provided, the constant material or
11:00:55 3 intelligence in relation to [REDACTED] [REDACTED]
11:01:01 4 [REDACTED], I don't believe was part of LPP and
11:01:05 5 that's why we sought it.
11:01:07 6
11:01:07 7 I understand that?---Now I understand what you say in
11:01:09 8 relation to other issues such as conflict of interest.
11:01:12 9
11:01:13 10 But it's a major issue because you understand this notion
11:01:16 11 of disclosure, don't you?---Yes.
11:01:19 12
11:01:19 13 If a person continues to act for someone having provided
11:01:25 14 the information which gets them convicted, there is an
11:01:30 15 obligation on, I suggest, Victoria Police, you, to say to
11:01:36 16 the person, "Look, your lawyer is in fact acting for
11:01:42 17 us"?---That was not a consideration of mine at the time.
11:01:46 18 My consideration was to try and get her out of acting for
11:01:52 19 [REDACTED] [REDACTED] and I told her on several occasions that we
11:01:55 20 didn't want her to do that. I told her that she could
11:01:58 21 remove herself from that representation.
11:02:00 22
11:02:01 23 Yes. But can I say this, time and time again throughout
11:02:05 24 this period she was providing information about persons and
11:02:10 25 acting for them, time and time again. Do you agree with
11:02:13 26 that proposition?---I agree with that proposition insofar
11:02:20 27 as it relates to [REDACTED]'s arrest. Prior to that her
11:02:24 28 contact with [REDACTED]
11:02:31 29 [REDACTED] professional relationship and, as I
11:02:35 30 said, I considered that intelligence was intelligence that
11:02:40 31 we were entitled to get and act on.
11:02:42 32
11:02:43 33 Mr White, you knew full well, didn't you, that she was
11:02:47 34 acting for [REDACTED] [REDACTED] in proceedings at the very time that
11:02:51 35 you commenced receiving information from her?---No, at the
11:02:58 36 time we commenced receiving information I wasn't sure what
11:03:02 37 her status was with him.
11:03:03 38
11:03:03 39 Did you make any attempt to find out whether she was acting
11:03:07 40 for any of the people in relation to whom you were getting
11:03:11 41 information?---At various times, yes.
11:03:15 42
11:03:15 43 Wouldn't it have been a very important thing to do to
11:03:19 44 establish in effect whether or not it was appropriate to
11:03:23 45 get the information from her to find out if she was acting
11:03:28 46 for these people?---I've already said to you, Mr Winneke,
11:03:32 47 that whether she was acting for them or not didn't make any

11:03:38 1 difference in terms of the material she provided, which I
11:03:41 2 considered to be material not the subject of legal
11:03:47 3 professional privilege.
11:03:48 4
11:03:48 5 I suspect we're going around in circles and it may well be
11:03:53 6 that you don't appreciate it. But ultimately one of the
11:03:55 7 real issues that confronts the courts and has confronted
11:03:59 8 the Court of Appeal, the Supreme Court and the High Court
11:04:03 9 is this problem of Nicola Gobbo acting for people at the
11:04:06 10 same time as providing information to police. What you
11:04:09 11 simply say is that's not something you understand or
11:04:12 12 understood at the time, you didn't see any problem with
11:04:14 13 that?---That's correct.
11:04:16 14
11:04:16 15 COMMISSIONER: That is providing information to Victoria
11:04:18 16 Police about the people she was acting for.
11:04:20 17
11:04:21 18 MR WINNEKE: Yes, about the people. Whether that was LPP
11:04:24 19 material or confidential material, information that enabled
11:04:28 20 police to charge, prosecute and convict people whilst
11:04:33 21 they're being represented by the very person who provided
11:04:36 22 the information?---I'd just like to make this clear. It
11:04:40 23 was very simple for me. She could provide information
11:04:50 24 about people that were not clients, she could provide
11:04:53 25 information about people that were clients. And in that
11:04:54 26 category if it was to do with ongoing or future planned
11:04:58 27 crimes, serious crimes, that was not protected by that
11:05:03 28 particular professional relationship. We told her, as I
11:05:04 29 said, countless times we did not want to hear anything
11:05:08 30 about material which was the subject of LPP which directly
11:05:11 31 related to the clients and the client's offence.
11:05:14 32
11:05:14 33 You told her you did not want her to act for people in
11:05:18 34 relation to whom she had provided information?---That's
11:05:22 35 right.
11:05:22 36
11:05:23 37 And why did you tell her that?---Because there's
11:05:27 38 potentially a conflict of interest.
11:05:29 39
11:05:29 40 Exactly. And what would arise from that potential conflict
11:05:34 41 of interest?---I suppose all sorts of things could arise
11:05:37 42 from it, but let me say this - - -
11:05:40 43
11:05:40 44 A Royal Commission for one thing?---The conflict of
11:05:45 45 interest is hers. I always thought that was her
11:05:50 46 responsibility, not my responsibility.
11:05:52 47

11:05:52 1 So you wash your hands of it?---Mr Winneke, the record
11:05:56 2 shows that we tried on numerous occasions to avoid conflict
11:05:59 3 of interest issues and you've already, I think, established
11:06:04 4 we were not very successful.
11:06:06 5
11:06:07 6 Did you ever at any stage say, "Listen, if this happens on
11:06:11 7 one more occasion that is the end of the relationship
11:06:14 8 between Victoria Police and Nicola Gobbo"?---I did tell her
11:06:17 9 quite clearly on one occasion that - - -
11:06:20 10
11:06:20 11 When was that?---Sorry, I'm just making sure I have the
11:06:26 12 names correct here. I told her specifically in relation to
11:06:29 13 ██████████ ██████████ that she couldn't go and represent him and she
11:06:32 14 said to me, "██████████ I'm going to whether you like it or
11:06:37 15 not". Sorry, I used my own name now.
11:06:43 16
11:06:43 17 COMMISSIONER: Obviously there would be no, because of the
11:06:46 18 orders I've made there will be no publication of that and
11:06:49 19 it should be removed from the transcript, the name.
11:06:53 20
11:06:54 21 MR WINNEKE: Right. And the reason you told her is because
11:06:57 22 it would be undermining the system of justice if she was
11:07:03 23 acting for a person, providing advice to a person who she
11:07:06 24 had helped have arrested?---Yes.
11:07:09 25
11:07:11 26 She defied you, you say?---Yes.
11:07:15 27
11:07:16 28 Did you then find yourself in a difficult position where
11:07:19 29 you would need to consider making disclosure, that is
11:07:24 30 telling ██████████ ██████████ that the person that you knew the person
11:07:31 31 who was providing him advice was in fact an agent of
11:07:35 32 Victoria Police?---No, my consideration at the time was
11:07:43 33 what can I do about it? What mechanism did I have to stop
11:07:47 34 her doing that?
11:07:48 35
11:07:49 36 What mechanism did you have?---Well, what occurred to me
11:07:54 37 was I could deactivate her, tell her the relationship is
11:07:59 38 finished, but that wouldn't have been true because the
11:08:01 39 relationship was not going to be finished for quite some
11:08:04 40 time because we have duty of care duties to her so we were
11:08:11 41 going to maintain that relationship until those issues were
11:08:14 42 resolved. That wasn't an option to say, "That's it, we're
11:08:18 43 finished with you, we'll never see you again". The other
11:08:22 44 option was, was there any means to stop her by any power of
11:08:26 45 arrest. I certainly didn't think I had any sort of power
11:08:29 46 arrest in that situation and I think - - -
11:08:31 47

11:08:31 1 Did you consider arresting her?---There was a power - - -
11:08:34 2
11:08:35 3 Did you consider arresting her when she defied you and
11:08:38 4 acted for ██████████, or at least advised ██████████ - - -
11:08:43 5
11:08:44 6 MR HOLT: Commissioner, twice in two seconds the same thing
11:08:48 7 has now happened, these are the risks we are confronting.
11:08:51 8 I understand it's difficult but it just can't happen.
11:08:55 9
11:08:55 10 COMMISSIONER: No.
11:08:56 11
11:08:56 12 MR HOLT: And it continues to and I don't want to have to
11:08:59 13 make another application in respect of proceedings,
11:09:03 14 Commissioner, I mean here before you, Commissioner.
11:09:05 15
11:09:05 16 COMMISSIONER: Yes, thanks Mr Holt.
11:09:06 17
11:09:06 18 MR HOLT: Can I indicate, Commissioner, while I'm on my
11:09:09 19 feet because it's a logical break, even though I made it, I
11:09:13 20 do seek, because for various reasons that the Commission
11:09:15 21 will probably be aware of, there is not a specific order
11:09:19 22 prohibiting the publication of any information that might
11:09:21 23 tend to identify ██████████ ██████████
11:09:23 24
11:09:23 25 COMMISSIONER: I have made them in the past but perhaps it
11:09:25 26 doesn't relate to this order. So if there's any doubt, the
11:09:29 27 orders that I made yesterday prohibiting publication are
11:09:33 28 now extended to ██████████ ██████████
11:09:36 29
11:09:37 30 MR HOLT: And any information that might tend to identify
11:09:39 31 ██████████ ██████████ I'm grateful, Commissioner.
11:09:41 32
11:09:41 33 COMMISSIONER: Yes, that's the term of the order. So
11:09:43 34 ██████████ ██████████ will be added to the names of the SDU handlers in
11:09:47 35 the current order for non-publication. Yes, Mr Winneke,
11:09:55 36 chastised appropriately by Mr Holt.
11:09:57 37
11:09:57 38 MR WINNEKE: Yes, I feel it.
11:09:58 39
11:09:59 40 MR HOLT: I understand how it happens, Commissioner, but I
11:10:01 41 also understand the consequences.
11:10:02 42
11:10:03 43 COMMISSIONER: Yes, of course.
44
45 MR HOLT: I'm not attempting to make any personal - - -
46
11:10:03 47 COMMISSIONER: We must all take great care to use the

11:10:09 1 pseudonyms.

11:10:09 2

11:10:09 3 MR HOLT: Thank you Commissioner.

11:10:11 4

11:10:11 5 MR WINNEKE: Now, did you consider arresting [REDACTED] when

11:10:16 6 she defied you and went and offered advice to [REDACTED]

11:10:24 7 against your desires?---It did cross my mind that that

11:10:30 8 might have been an option but there's no power to arrest

11:10:33 9 for a conflict of interest and I didn't think that there

11:10:37 10 would be sufficient to justify an arrest for a perversion

11:10:44 11 of the course of justice.

11:10:46 12

11:10:46 13 So you did actively consider that what she was doing may

11:10:51 14 have been an offence of perverting or doing an act with a

11:10:55 15 tendency to pervert the course of justice, correct?---That

11:10:59 16 was an option. I considered all my options and I

11:11:05 17 eliminated that one pretty quickly.

11:11:07 18

11:11:07 19 You considered it, it was an option albeit you dismissed

11:11:11 20 it?---That's correct.

11:11:12 21

11:11:13 22 It's a pretty serious situation though nonetheless when a

11:11:18 23 person who provides you with information then defies your

11:11:23 24 express request and then acts for that person with the

11:11:27 25 potential that she is committing an offence of perverting

11:11:31 26 or attempting to pervert or doing an act which has the

11:11:35 27 tendency to pervert the course of justice, would you agree

11:11:38 28 with that proposition?---I think I've already agreed with

11:11:41 29 that proposition.

11:11:41 30

11:11:42 31 The obvious thing to do would be to seek the advice of

11:11:45 32 superior officers, correct?---Yes.

11:11:51 33

11:11:51 34 And which officer did you seek the advice from?---I can't -

11:11:57 35 I can't recall.

11:11:58 36

11:11:58 37 Did you speak to any officer about this

11:12:03 38 predicament?---Again, I can't recall.

11:12:05 39

11:12:07 40 As a matter of common sense, albeit you can't recall, I'd

11:12:12 41 suggest to you if you were considering albeit dismissing

11:12:16 42 that consideration, arresting her, it's something that you

11:12:19 43 would obviously send up the line and speak to someone

11:12:24 44 about?---Possibly.

11:12:26 45

11:12:27 46 Who would you have spoken to? Who would be the person you

11:12:31 47 would have spoken to?---Possibly the investigators

11:12:37 1 themselves, which would have been Senior Sergeant O'Brien,
11:12:45 2 and also probably Superintendent Biggin. They were, well,
11:12:50 3 Superintendent Biggin was my supervisor at the time. I'm
11:12:56 4 not sure if I had a part-time Inspector then.
11:13:00 5
11:13:00 6 What about Mr Calishaw?---I think Mr Calishaw may have been
11:13:08 7 gone by then. I'm not sure on that at all.
11:13:13 8
11:13:13 9 What about Mr Overland?---Well I wouldn't have spoken to
11:13:18 10 Mr Overland directly.
11:13:21 11
11:13:22 12 You did at times speak to Mr Overland about the deployment
11:13:27 13 of Ms Gobbo as a human source though, didn't you?---Yes.
11:13:30 14
11:13:31 15 When do you first recall speaking to Mr Overland about
11:13:35 16 that?---I would have to check the record. I'm assuming
11:13:45 17 you've got access to the source management log.
11:13:48 18
11:13:49 19 You don't have a recollection but whatever's in the source
11:13:52 20 management log or your diaries you would not disagree
11:13:56 21 with?---That's right.
11:13:57 22
11:13:59 23 What about the circumstances which led you to speak to
11:14:02 24 him?---Sorry, speak to who?
11:14:06 25
11:14:07 26 Mr Overland?---No, I can't recall.
11:14:09 27
11:14:17 28 What is clear is that you did not, as a result of this
11:14:22 29 event, amend the risk assessment of Ms Gobbo as a human
11:14:29 30 source to include in it the possibility that she may be
11:14:33 31 involved in acts which may have the tendency to pervert the
11:14:37 32 course of justice?---No.
11:14:39 33
11:14:42 34 Can I ask you why not?---No, I don't know why not.
11:14:51 35
11:14:52 36 The alternatives are you could have ceased getting
11:14:58 37 information from her at all about ██████████ ██████████, that was an
11:15:07 38 option that you could have taken?---Yes.
11:15:11 39
11:15:11 40 Given that she was now making it clear to you that she was
11:15:14 41 going to defy you and continue to act and advise for
11:15:19 42 him?---Yes.
11:15:20 43
11:15:20 44 But you didn't do that?---No.
11:15:22 45
11:15:23 46 And knowing that she was going to continue to act for him
11:15:26 47 you didn't desist in getting information from her about

11:15:29 1 him?---This all happened at about the time of the arrest.
11:15:38 2
11:15:38 3 Yes, but you continued - - - ?---You seem to be suggesting
11:15:42 4 that we, she told us she was going to do that and then
11:15:46 5 we've continued on working on ██████████ ██████████ It was all very
11:15:51 6 close to the time of the arrest when we're having these
11:15:55 7 discussions.
11:15:55 8
11:15:56 9 What about other people for whom she was acting, did you
11:16:01 10 say to yourselves at that stage, "Right, we must not get
11:16:05 11 information from Ms Gobbo about people for whom she is
11:16:09 12 acting or may act for"?---After the arrest of ██████████ ██████████
11:16:18 13 yes, there were quite a number of discussions about an exit
11:16:24 14 strategy in relation to Ms Gobbo's management.
11:16:29 15
11:16:30 16 Yes?---She was put into what we call a baby-sitting mode
11:16:36 17 which, and she was told directly that we didn't want any
11:16:40 18 intelligence, we weren't going to act on any intelligence,
11:16:44 19 and that was, as I said, that was a baby-sitting sort of
11:16:48 20 period.
11:16:48 21
11:16:49 22 How long did that period last for because pretty soon after
11:16:52 23 that she was active and providing all sorts of information
11:16:54 24 about people, including people for whom she was acting and
11:16:57 25 continued to act? That's two questions. The first part of
11:17:04 26 it is how long did that baby-sitting stage last for?---The
11:17:09 27 baby-sitting stage continued for probably - so if ██████████ ██████████
11:17:15 28 was arrested in I think ██████████ of 2006, the baby-sitting
11:17:23 29 period went right up until the end of the relationship.
11:17:29 30
11:17:30 31 Sorry, right up until when?
11:17:34 32
11:17:34 33 COMMISSIONER: The end of the relationship.
11:17:35 34
11:17:36 35 MR WINNEKE: So the baby-sitting stage continued through to
11:17:40 36 January of 2009, is that what you're saying?---Yes.
11:17:44 37
11:17:44 38 Do you honestly say that throughout the period remaining
11:17:47 39 that you didn't seek information or get information from
11:17:50 40 her about anyone?---No.
11:17:53 41
11:17:53 42 MR CHETTLE: Can that be broken down into two parts, didn't
11:17:56 43 seek or didn't get?
11:17:58 44
11:18:00 45 MR WINNEKE: Okay. Did you seek information from Ms Gobbo
11:18:03 46 as an informer after the arrest of ██████████ ██████████ -So for a
11:18:14 47 great part of the period after the arrest of ██████████ ██████████ as

11:18:17 1 I said, she was told quite clearly we didn't want any
11:18:22 2 further information and if she provided it we would not act
11:18:27 3 on it. [REDACTED]
11:18:37 4 [REDACTED]
11:18:40 5 [REDACTED]
11:18:41 6
11:18:42 7 COMMISSIONER: All right, it might be best to have a short
11:18:44 8 adjournment then, I might take the midmorning adjournment
11:18:48 9 now and you can discuss that with your legal
11:18:50 10 representatives and legal team?---Thank you.
11:18:53 11
11:18:54 12 Yes, all right then, we'll have a ten minute adjournment
11:18:58 13 thanks.
11:19:21 14
11:19:21 15 (Short adjournment.)
11:19:21 16
11:40:56 17 COMMISSIONER: Yes, Mr Winneke.
18
11:40:58 19 MR WINNEKE: Thanks Commissioner. Mr White - - -
20
11:41:08 21 COMMISSIONER: Just a minute.
22
11:41:23 23 Thanks Mr White. Yes, Mr Winneke.
24
11:41:25 25 MR WINNEKE: Thanks Commissioner. Mr White?---I can't
11:41:29 26 hear.
27
11:41:29 28 Can you hear me?
11:41:30 29
11:41:30 30 COMMISSIONER: No. Can you hear me, Mr White? Can you
11:41:35 31 hear me, Mr White? No.
11:41:40 32
11:41:40 33 MR CHETTLE: There's a mute button. Can I ring him,
11:41:42 34 Commissioner?
35
11:41:43 36 COMMISSIONER: Yes, sure. Can you hear us now,
11:41:48 37 Mr White?---Yes, I can Commissioner.
38
11:41:50 39 Good. And Mr Winneke.
40
11:41:52 41 MR WINNEKE: Yes, can you hear me?---Yes, I can.
42
11:41:54 43 Can you see me?---Yes.
44
11:41:57 45 Okay.
46
11:41:59 47 COMMISSIONER: Can you see him, Mr Winneke?

1
11:42:01 2 MR WINNEKE: Unfortunate for you, but anyway. I can't see
11:42:02 3 you?---That's fortunate for you.
4
11:42:07 5 Unfortunate for you. What I was asking you about before
11:42:16 6 the break was - and I'm not going to go into a great deal
11:42:21 7 of detail about this, but what you say is she went into a
11:42:23 8 sort of hibernation period and went into a baby-sitting
11:42:27 9 mode which more or less pertained until the end of the
11:42:31 10 relationship with her?---Yeah, and what I was in the course
11:42:35 11 of saying, despite the fact that she was in baby-sitting
11:42:42 12 mode and that we told her we didn't want intel and we were
11:42:46 13 not going to act on it anyway.
14
11:42:48 15 Yes?---She continued to volunteer intelligence and at one
11:42:54 16 point she volunteered intelligence in relation to Rob Karam
11:42:58 17 and his involvement in the importation of what turned out
11:43:02 18 to be four and a half tonne of MDMA.
19
11:43:06 20 Yes?---And we acted on that.
21
11:43:10 22 The statement that you made before that she was in
11:43:13 23 baby-sitting mode in effect through to the end of the
11:43:15 24 relationship is not quite correct because at the very least
11:43:20 25 there was information that you received in relation to Rob
11:43:23 26 Karam which was acted upon?---Yes.
27
11:43:27 28 But quite clearly if one looks at the ICRs, at the very
11:43:33 29 least, there is a continual receipt of information coming
11:43:39 30 from Ms Gobbo to your Unit continuously throughout the
11:43:44 31 period and there's no cessation of receipt of information,
11:43:49 32 it just keeps coming in, correct?---Yes.
33
11:43:52 34 So if what you said is right, you wouldn't have been
11:43:55 35 disseminating that information, would you?---No.
36
11:43:59 37 But you were, do you agree with me?---I agree there
11:44:10 38 probably was some information disseminated - - -
39
11:44:15 40 Well the record - sorry, I interrupted you?---But I would
11:44:18 41 have to look at the contact reports and the source
11:44:21 42 management log and determine exactly when she was told we
11:44:27 43 didn't want further information and, as I said, she was
11:44:32 44 told that on a number of occasions. Without having that
11:44:37 45 ability to reconcile what information was disseminated and
11:44:43 46 what wasn't, I'm probably not being very helpful.
47

11:44:49 1 We're going to get in due course into more detail about
11:44:52 2 ICRs, but effectively what you're saying is after the
11:44:54 3 arrest of [REDACTED] your concerns about her defying you, the
11:45:02 4 potential of having to arrest her, she's gone into
11:45:05 5 baby-sitting mode because of a risk, one, to the course of
11:45:10 6 justice; is that correct?---I don't know whether it was
11:45:18 7 specifically in relation to the course of justice.
8
11:45:20 9 Was that one of the issues?---It would have been one of the
11:45:23 10 issues. The fact that she was difficult to manage was
11:45:28 11 definitely an issue.
12
11:45:30 13 Right?---And then there was the other issue of the more
11:45:34 14 intelligence you'd receive from a source and act on, the
11:45:39 15 higher is the risk that they will be compromised.
16
11:45:42 17 As at around April 2006 the number of people who were aware
11:45:53 18 of her position as an informer had increased and that was a
11:45:59 19 matter that was concerning you, correct?---Yes.
20
11:46:02 21 It led you to - one of the things I suggest that led you to
11:46:08 22 consider perhaps that you ought to do another risk
11:46:12 23 assessment?---There was a second one done but I don't
11:46:14 24 recall when it was.
25
11:46:15 26 Well I think there was some suggestion that it was -
11:46:21 27 information was conveyed to you from Ms Gobbo that she'd
11:46:25 28 been told by a person by the name of Waters that her phone
11:46:31 29 might have been the subject of a Commonwealth telephone
11:46:34 30 intercept warrant, TI?---Yes.
31
11:46:39 32 And that caused you some concern?---Yes.
33
11:46:42 34 Look, to come back to the proposition that you made before,
11:46:46 35 what I suggest to you is that your records show that you
11:46:49 36 continued to receive information from her in buckets and
11:46:53 37 you continued to disseminate information both verbally to
11:46:59 38 Purana, do you agree with that?---I think that's probably
11:47:05 39 right but I would need to see the records.
40
11:47:09 41 Right. If I'm being inaccurate about it no doubt
11:47:13 42 Mr Chettle will say so. But I suggest that the SDU
11:47:17 43 continued throughout 2006/2007/2008 to provide information
11:47:24 44 that was received from her both in the nature of - both in
11:47:30 45 the form of information reports, do you agree with
11:47:33 46 that?---There would have been some, yes.
47

11:47:35 1 And verbal disseminations to members of the Purana Task
11:47:39 2 Force?---Yes.
3
11:47:41 4 And those verbal disseminations of information were
11:47:44 5 provided not just in relation to Mr Karam, but to a whole
11:47:50 6 raft of people?---I think they would have been, yes.
7
11:47:57 8 So the suggestion that she was simply in baby-sitting mode
11:48:00 9 or hibernation mode and only reactivated with respect to
11:48:07 10 Mr Karam I suggest simply doesn't hold water?---Yet again,
11:48:11 11 I would need to look at the records. There's a very clear
11:48:16 12 record she was told we were not going to receive intel and
11:48:19 13 we were not going to action it.
14
11:48:20 15 Yes?---And she was the sort of person despite that she
11:48:24 16 would come into meetings and just release all sorts of
11:48:27 17 intelligence.
18
11:48:29 19 So yet again - - - ?---So - - -
20
11:48:31 21 Sorry, go on?---No, sorry.
22
11:48:34 23 Yet again she simply would not be prepared to listen to any
11:48:38 24 restrictions that you were placing on her, she would
11:48:41 25 continue to volunteer information, correct?---She would
11:48:45 26 continue to volunteer information.
27
11:48:47 28 And despite your view that it was perhaps unsafe, not
11:48:52 29 proper to do so, you continued to, at least people under
11:48:56 30 your control continued to verbally disseminate
11:49:01 31 information?---Sorry, and you are saying that I thought it
11:49:06 32 was improper to do so?
33
11:49:08 34 Well I thought - - - ?---Is that your question?
35
11:49:13 36 I thought you were saying before that the idea was that it
11:49:16 37 was not appropriate to continue providing information about
11:49:19 38 her and she was in baby-sitting mode?---I did, that's
11:49:22 39 correct. And I'm not saying it's improper to receive that
11:49:26 40 intelligence once it's volunteered.
41
11:49:27 42 What I'm suggesting to you is it was just business as
11:49:31 43 usual, both before the arrest of [REDACTED] [REDACTED] and after the
11:49:34 44 arrest of [REDACTED] [REDACTED] nothing changed?---No, I don't agree
11:49:40 45 with that.
46
11:49:41 47 All right, okay. I was asking you about standard operating

11:49:52 1 procedures that you had produced. The standard operating
11:49:58 2 procedures in effect set out the main means by which
11:50:02 3 information would be received and disseminated; is that
11:50:10 4 right?---I would have to see the SOPs, see what they say on
11:50:16 5 that particular point.
6
11:50:17 7 Yes, all right. I'll take you to them. If we could put up
11:50:22 8 the SOPs again. If we can go to p.10 of that document. If
11:50:41 9 we can have a look at the duty requirements. That section
11:50:44 10 of the document refers to the obligations of the various
11:50:47 11 people involved, the officer-in-charge. "The
11:50:51 12 responsibility of the officer-in-charge was for the overall
11:50:55 13 management of the DSU, to ensure that the Unit continually
11:51:01 14 strives towards best practice in human source management.
11:51:04 15 Responsibilities include managing, controlling, supervising
11:51:07 16 team activities in the operational management of registered
11:51:10 17 human sources on a force-wide basis in accordance with
11:51:13 18 instructions and action plans and maintenance of ethical
11:51:19 19 and professional standards", correct?---Yes.
20
11:51:22 21 Who was the officer-in-charge of the Unit when Ms Gobbo was
11:51:29 22 registered?---That would have been Inspector Calishaw .
23
11:51:38 24 He was an Inspector. There was no person immediately
11:51:43 25 superior to you in rank?---No, no. Mr Calishaw, as I said
11:51:54 26 earlier, I can't recall when he left so I'm not exactly
11:52:00 27 sure. I think he was still present when Ms Gobbo's
11:52:03 28 registration arose.
29
11:52:08 30 Yes?---He also had the management of the Human Source
11:52:13 31 Management Unit under his responsibility and he was
11:52:16 32 actually located not with us but with the Human Source
11:52:22 33 Management Unit so he shared, or should I say we shared him
11:52:25 34 as an officer-in-charge.
35
11:52:27 36 All right. So he had a significant degree of
11:52:29 37 responsibility at the time that Ms Gobbo was registered; is
11:52:36 38 that right?---Yes, because, as I said, I think he was
11:52:39 39 present at that stage.
40
11:52:43 41 There was no Inspector immediately above you?---No, no. He
11:52:48 42 was it.
43
11:52:51 44 Was it intended that there would be an Inspector?---It was
11:52:55 45 intended that there would be an Inspector. It was a
11:52:58 46 recommendation. In my statement I've referred you to three
11:53:03 47 major reports.

1
11:53:04 2 Yes?---Which led to the creation, the establishment and
11:53:09 3 then, if you like, a review of the operations of what
11:53:13 4 became the Source Development Unit.
5
11:53:15 6 Right?---There's a number of recommendations in each of
11:53:17 7 those papers but I think they all say there needed to be a
11:53:21 8 full-time Inspector at the unit.
9
11:53:24 10 And there wasn't, I take it?---Not until maybe 2011
11:53:33 11 perhaps.
12
11:53:33 13 Right?---When Mr O'Connor came on board.
14
11:53:37 15 Really that left a huge amount of work on your shoulders,
11:53:40 16 didn't it?---Yes, it did.
17
11:53:42 18 And I'm not critical of you at all but the reality is that
11:53:47 19 as a [REDACTED] you were the controller of the
11:53:50 20 handlers and ultimately there ended up being a significant
11:53:56 21 number of handlers, in excess I think of [REDACTED] handlers,
11:54:03 22 would that be right?---Ultimately, and for the majority of
11:54:07 23 the time I was there there was [REDACTED] handlers.
24
11:54:10 25 Yes. So you were responsible for - well let's move on to
11:54:16 26 your responsibilities. If we go to page - just before we
11:54:23 27 do. The officer-in-charge ordinarily would be an
11:54:26 28 Inspector, is that right, that was what was
11:54:30 29 intended?---That was what was intended.
30
11:54:32 31 But, what, because of monetary constraints there wasn't a
11:54:36 32 full-time officer put in place?---I imagine it was a
11:54:42 33 financial thing. To be honest with you I have no idea why
11:54:47 34 it couldn't happen. It's very difficult finding - - -
11:54:49 35
11:54:49 36 Were you - - - ?---Sorry.
37
11:54:54 38 No, I interrupted you. I apologise, Mr White?---It was
11:54:59 39 very difficult to staff that unit at any rank and it
11:55:04 40 happened incrementally and the decisions about whether a
11:55:09 41 full-time Inspector would be allocated to the Unit were
11:55:12 42 made at a much higher level than me.
43
11:55:14 44 Did you seek to get more assistance?---Yes, I did, on
11:55:19 45 numerous occasions.
46
11:55:22 47 Who did you ask?---Initially the papers went to a steering

11:55:28 1 committee, so the recommendations were in black and white
11:55:31 2 from the steering committee. I know Superintendent Biggin
11:55:35 3 shared the view that there needed to be a full-time
11:55:38 4 Inspector at the Unit.
5
11:55:39 6 Yes?---So he would have progressed that as far as he could.
7
11:55:45 8 But he kept coming - every time you asked him he said,
11:55:48 9 "Look, I'm sorry, Sandy, there's just nothing we can do, we
11:55:53 10 can't get you an Inspector"?---I honestly can't remember
11:55:58 11 what he said to me about it.
12
11:56:00 13 Words to that effect?---I know he was trying to make it
11:56:03 14 happen but I don't know the ins and outs of it.
15
11:56:07 16 In any event - so the role of the officer-in-charge are
11:56:13 17 those functions set out on p.10 of the SOP and essentially
11:56:17 18 they're basically management, control and oversight
11:56:23 19 obligations, correct?---Yes.
20
11:56:29 21 It would have enabled you to have frank discussions with a
11:56:35 22 more senior and a more accessible officer about issues that
11:56:37 23 were concerning you?---Yes.
24
11:56:39 25 You didn't have any such person available to you
11:56:43 26 immediately?---No.
27
11:56:46 28 And it placed a significant burden upon your shoulders when
11:56:49 29 you considered matters such as those that we were
11:56:52 30 discussing before about the defiance by Ms Gobbo of your
11:57:01 31 directions?---Well I don't want to avoid my responsibility
11:57:09 32 in relation to this matter but my role at that Unit at the
11:57:14 33 time was much greater than being a controller. I was
11:57:18 34 essentially acting as the officer-in-charge. I was
11:57:22 35 building [REDACTED] very high in-source training,
11:57:28 36 national training. I was preparing, as you can see, the
11:57:33 37 SOPs, and all of the admin. that goes with a stand alone
11:57:39 38 [REDACTED] office.
39
11:57:40 40 Yes?---So my role - in the ideal world my role of
11:57:49 41 controller, if that was the only thing I had to do I would
11:57:54 42 have had much greater oversight of this particular source
11:57:57 43 management file.
44
11:57:58 45 MR CHETTLE: Commissioner, can I say that last section is
11:58:00 46 all obviously bio data that might tend to identify him and
11:58:05 47 would be covered, in my submission to you, by your order

11:58:07 1 already, but it's only in relation to making sure it
11:58:11 2 doesn't get published. It would fall within your order in
11:58:17 3 my submission.
4
11:58:20 5 COMMISSIONER: Well I think my order stands and - - -
11:58:25 6
11:58:25 7 MR CHETTLE: I'm not asking for an amendment, I'm just
11:58:27 8 really - - -
9
11:58:29 10 COMMISSIONER: My order stands and those who are bound by
11:58:33 11 it will abide by it.
12
11:58:35 13 MR WINNEKE: Thanks Commissioner. Then your
11:58:38 14 responsibilities are set out on p.11 of the document and
11:58:49 15 this was your role, at least this was the role that you
11:58:53 16 were - it was intended that you would have. You'd be
11:58:56 17 responsible for the day-to-day management of the DSU as
11:58:59 18 well as performing the duties of a controller, and then
11:59:02 19 there's a reference to p.36 for a description of controller
11:59:06 20 duties. "A controller will play an active role in the
11:59:08 21 supervision, management and control of human sources staff.
11:59:12 22 Handlers and controllers' responsibilities include
11:59:22 23 administration and operational oversight, leading
11:59:27 24 controlling supervising", et cetera, "providing advice and
11:59:31 25 training, ensuring all administrative matters are given
11:59:37 26 appropriate attention". Now that's an area where
11:59:42 27 ultimately you would accept, I take it, that the SDU
11:59:49 28 unfortunately fell down over time, do you agree with that
11:59:51 29 proposition?--Well, there'd be specific areas where I
12:00:02 30 think we did fall down but I don't know whether you would
12:00:06 31 say that the SDU in general fell down.
32
12:00:11 33 I suppose I should be, to be fair, more specific. What I'm
12:00:16 34 suggesting is that in terms of the preparation of ICRs,
12:00:19 35 information contact reports, this was a criticism made by
12:00:26 36 Mr Comrie, on very many occasions there were significant
12:00:30 37 delays between conversations and the preparation of ICRs,
12:00:35 38 would you agree with that?--Yes.
39
12:00:39 40 And then the presentation of those ICRs by the handlers to
12:00:45 41 you, the controller, to in effect enable you to see what
12:00:48 42 was going on?--There was issues with timely submission of
12:00:58 43 the contact reports, certainly.
44
12:01:00 45 Yes. Indeed on some occasions ICRs, contact reports, would
12:01:07 46 not be put into an appropriate form to present to you, the
12:01:13 47 controller, for some many months on some occasions after

12:01:18 1 the actual contact had occurred?---I'm just being a little
12:01:26 2 bit cautious in my response here because Mr Comrie makes a
12:01:30 3 lot of criticisms about the contact reports, some of which
12:01:35 4 are absolutely untrue.
5
12:01:37 6 Yes?---I do absolutely accept the statement or the
12:01:43 7 criticism that our submission of some of the contact
12:01:48 8 reports over time was - well he called it tardy.
9
12:01:51 10 Yes?---But there were lengthy delays. In relation to how
12:02:00 11 lengthy they were, you say several months. I'm not sure of
12:02:07 12 the worst example of that but Mr Comrie makes reference to
12:02:10 13 missing contact reports and contact reports that are out of
12:02:13 14 sync. But those criticisms are just not right.
15
12:02:19 16 One of the criticisms that he makes or that he made I think
12:02:23 17 is that ICRs were out of sequence and sometimes delayed,
12:02:46 18 and I'll take you to the criticism of them so as there's no
12:02:50 19 issue about it. Some of the more significant issues
12:03:00 20 identified in the course of compiling this - he compiled a
12:03:06 21 table, do you recall, in his report?---I think while we're
12:03:13 22 talking about the Comrie report I'd like to just correct
12:03:16 23 some evidence I gave yesterday. I said I hadn't seen the
12:03:19 24 Comrie report yesterday.
25
12:03:21 26 Yes?---And that was a mistake. I had seen the Comrie
12:03:23 27 report and I'd actually provided a short critique of it, if
12:03:29 28 you like, to Mr Chettle.
29
12:03:31 30 I follow. So you had seen the Comrie report. When did you
12:03:34 31 see the Comrie report?---I think it must have been back in
12:03:42 32 maybe April, maybe May. You'd have to look at my critique
12:03:48 33 which will be - I think it will be dated.
34
12:03:52 35 I think it says 23 March.
12:03:55 36
12:03:55 37 MR CHETTLE: You've got the - it was 29 March.
38
12:04:00 39 MR WINNEKE: 27 March 2019. What you say is, "Look, I was
12:04:03 40 provided with the report and I went through the report and
12:04:06 41 I noted my disagreement with a number of the matters that
12:04:10 42 Mr Comrie reported", and that's something that you provided
12:04:15 43 to Mr Chettle?---That's right, and that was the first
12:04:19 44 occasion I'd actually seen the Comrie report.
45
12:04:22 46 Okay?---I apologise for misleading the court yesterday.
47

12:04:25 1 No, that's all right. What he did say is that, "Whilst
12:04:31 2 initially ICRs were submitted reasonably promptly by
12:04:35 3 handlers and validated by the control", being you,
12:04:39 4 "submission and validation dates quickly blew out to weeks,
12:04:43 5 months and in some instances even years after the
12:04:48 6 conversations had occurred". The next point he made was,
12:04:51 7 "A number of the ICRs" - firstly, do you agree with that
12:04:55 8 proposition?---No.
9
12:04:57 10 Right. What do you say?---I can't believe that contact
12:05:04 11 reports were not submitted for years. That just seems to
12:05:10 12 me to be a terrible exaggeration.
13
12:05:15 14 It may well be that Mr Comrie was suggesting that in excess
12:05:20 15 of a year after a conversation occurred an ICR was
12:05:26 16 presented to you for validation?---I don't accept that, not
12:05:30 17 for a minute.
18
12:05:31 19 But you do accept that certainly there were a number of
12:05:34 20 them which occurred which were submitted to you a
12:05:37 21 significant number of months, approaching a year, after the
12:05:40 22 conversation occurred?---No, I don't accept that either.
23
12:05:43 24 All right. If you don't accept that we might have to - I
12:05:50 25 haven't got it in front of me but is the reality this, if
12:05:55 26 we want to look at the date that it's submitted to you, we
12:05:57 27 look at the date which is written on the bottom of the
12:06:00 28 ICR?---No. Sorry, I think there's two dates on the ICR.
29
12:06:07 30 One's the standard - - - ?---Standard practice.
31
12:06:10 32 One date is against the name of the handler?---Yes.
33
12:06:15 34 Correct? That's the date - - - ?---Yes.
35
12:06:18 36 - - - that he completes the ICR?---Yes.
37
12:06:20 38 And then there's a date which is against the controller's
12:06:25 39 name, correct?---Yes.
40
12:06:27 41 And that's the date that the controller validates or in
12:06:31 42 effect signs off on the ICR?---Yes.
43
12:06:39 44 Essentially it's a fairly simple exercise to look at those
12:06:41 45 two dates, to look at the dates that the information
12:06:43 46 occurred and work out when it was submitted to you, or the
12:06:47 47 controller?---Yes.

1
12:06:49 2 So to take a simple example, if we go to ICR 104 of 3838,
12:07:07 3 do you see that?---Not yet.
12:07:37 4
12:07:38 5 MR CHETTLE: Have you got a page number on the bottom?
6
12:07:41 7 MR WINNEKE: I'm using an electronic copy. Excuse me.
12:07:49 8
12:07:50 9 MR HOLT: The material, Commissioner, that the witness is
12:07:51 10 working off and that you're working off, it's p.1283 in
11 volume 2 of 3838. That is the number in the bottom
12 right-hand corner.
13
12:07:55 14 COMMISSIONER: What was the page again, please?
12:07:58 15
12:07:58 16 MR HOLT: 1238 and volume 2 of the ICRs relating to 3838.
17
12:08:05 18 COMMISSIONER: Thanks very much.
12:08:06 19
12:08:08 20 MR CHETTLE: I don't think the witness has ones with page
12:08:11 21 numbers on it.
22
12:08:13 23 MR WINNEKE: Mr White, can you turn up that ICR number 3838
12:08:19 24 104 reasonably smartly?---I have one on the screen in front
12:08:24 25 of me now.
26
12:08:25 27 What it shows is that there's information which has been
12:08:31 28 provided on 10 October 2007 and the dates of the
12:08:36 29 information are from 10 to 14 October 2007, do you see
12:08:44 30 that?---I can see that.
31
12:08:45 32 If we go down to the bottom of the document, what we can
12:08:49 33 see is that the handler, I'm not going to ask his name, but
12:09:00 34 the handler signs off on that document on 30 January 2008.
12:09:15 35 Do you see that?---Yes.
36
12:09:18 37 That information in effect didn't come - wasn't provided in
12:09:24 38 an ICR for your validation until 30 January 2008, do you
12:09:29 39 agree with that?---Yes.
40
12:09:31 41 In this particular case there's no controller's name there
12:09:35 42 at all, do you see that?---Yes.
43
12:09:38 44 Does that mean that no controller ever validated that
12:09:42 45 information report - I'm sorry, the ICR?---No, sorry, I
12:09:50 46 can't, I can't say. Clearly the controller's name should
12:09:54 47 be in there and the date he viewed the form should be

12:09:57 1 there.
2
12:09:58 3 See, one of the criticisms that Mr Comrie made was in some
12:10:03 4 cases not only were they months afterwards but there
12:10:06 5 appeared to be no oversight by the controller. Do you see
12:10:15 6 that?---I can see that and you can draw the conclusion by
12:10:29 7 the fact that this is not signed and not dated, you could
12:10:32 8 draw that conclusion, it had not been oversighted.
9
12:10:35 10 Yes. That's an available conclusion, isn't it?---It is.
12:10:40 11 I'm just trying to remember how the system worked.
12
12:10:43 13 Right?---And how these reports then went from the SDU to
12:10:47 14 the HSMU.
15
12:10:51 16 Right. But what I - sorry?---That might give you some idea
12:10:56 17 as to whether the controller saw it. Certainly it should
12:11:01 18 not have left the office without being seen. It could have
12:11:04 19 just been an oversight from that particular controller.
20
12:11:07 21 It may or may not have been you, but in any event that's an
12:11:10 22 example. What I suggest to you is that there are a
12:11:13 23 significant number of other examples where the delay is
12:11:16 24 even greater than that. I mean that's about four months
12:11:21 25 odd but there are others where the delay is many more
12:11:25 26 months, eight months up towards 10 to 12 months?---That
12:11:29 27 would surprise me.
28
12:11:31 29 It may surprise you but what I suggest to you is that's the
12:11:39 30 fact. Now you disagree with that?---Well, in the absence
12:11:46 31 of the actual material I will disagree with it because I've
12:11:51 32 already conceded that the timely submission was a problem.
12:11:58 33 That's about the only thing I agree with in Mr Comrie's
12:12:03 34 report and he's quite right that over time it became worse.
12:12:06 35 But you know the sort of delays you're talking about, I'd
12:12:09 36 be very surprised if that's the case.
37
12:12:11 38 Mr Comrie says, he says months and you say well, "Look,
12:12:16 39 effectively what it is, what it is, whatever is on the
12:12:21 40 document I've got to concede is probably the case"?---Well
12:12:24 41 that's right. Mr Comrie also says that contact reports
12:12:28 42 should be done the day of the meeting, which is just
12:12:31 43 rubbish.
44
12:12:32 45 That might be rubbish but do you think - according to you -
12:12:35 46 but do you think eight months or thereabouts afterwards is
12:12:40 47 wholly inadequate?---Yes.

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What you say is it wasn't uncommon for these delays to occur because when handlers would change the new handler may have more time to push the paperwork through quickly, whilst the previous handler had fallen behind in submitting the reports instantly, right?---That's right.

And what, because as time went by handlers built up a mountain of work that they had to submit and it took an awful long time to get these things into order?---It did, it fluctuated with the handler's workload and for all the other usual reasons with leave and courses, et cetera, et cetera.

The handlers couldn't keep up with the record keeping process which was essential but very onerous, correct?---In some cases, yes.

It should also be borne in mind that all the handlers were managing multiple sources simultaneously so the workload had a lot to do with the timely submission of ICRs?---That's correct.

In effect I suppose we're coming back to the proposition that there was just too much work for too few people to do?---Yes.

But what it also meant was that there wasn't proper oversight?---I think that's - I could not say to you that there was 100 per cent oversight for the whole time.

Right?---I was there, absolutely. I can't say that, specially in the face of this particular document. But what I will say to you is that whilst the contact report may not have been submitted for some time, the handlers reported to the controllers every contact they had with a source and gave a summary of that conversation.

Right. So you would have known - - - ?---That was done contemporaneously.

But insofar as the ICRs and the submission of those to the controller, that aspect of the oversight simply wasn't functioning properly?---Yes.

Can you say that there were - the intention was that verbal disseminations of information to particular investigating

12:15:17 1 officers was to be done by the officer-in-charge or the
12:15:21 2 [REDACTED] How was that to operate?---Well in the case
12:15:28 3 where there's an assigned investigator, originally what
12:15:35 4 happened was the handlers would receive the intelligence
12:15:40 5 and then ring one of the investigators on whatever crew was
12:15:46 6 investigating the subject of that intelligence.
7
12:15:48 8 Right?---That was a bad system. It allowed for - we
12:15:53 9 couldn't track who the intelligence was going to.
10
12:15:56 11 Yes?---And we weren't certain that it was going to the
12:16:01 12 right people at the right time. So we come up with a
12:16:05 13 protocol called the point of liaison protocol where one
12:16:09 14 member of the investigative team was assigned
12:16:11 15 responsibility for being the contact with the source
12:16:14 16 handler.
17
12:16:14 18 Yes?---That then helped ensure that we knew the
12:16:19 19 intelligence was going to a particular person and the
12:16:23 20 handlers were instructed that they were to note the fact
12:16:27 21 that any particular intelligence was being disseminated to
12:16:34 22 that person who was the point of liaison.
23
12:16:36 24 Is that written down anywhere?---The point of liaison
12:16:41 25 protocol I think you'll find in one of those three papers
12:16:45 26 I've referred to. It's probably, and it should be, in the
12:16:49 27 SOPs which were supposed to be reviewed annually.
28
12:16:53 29 Right. Were they reviewed annually?---I'm pretty certain
12:16:58 30 they were.
31
12:16:58 32 Well the document that we've got, the SOP that we're
12:17:02 33 working from I think is signed off in 2005, do you say
12:17:06 34 there was a subsequent one, or any subsequent one?---No,
12:17:10 35 what I'm saying to you is that they should be reviewed
12:17:13 36 annually. So you may find other files, other computer
12:17:19 37 files, which will be another SOP document created at a time
12:17:25 38 after 2005.
39
12:17:26 40 Yes?---What is supposed to happen is that they may get
12:17:33 41 reviewed and no changes made or they may get reviewed and a
12:17:37 42 document will be amended, but the original versions will
12:17:41 43 remain on the system.
44
12:17:42 45 But there would be a note on the document that there'd been
12:17:46 46 a review and either there were no changes or there was some
12:17:52 47 changes made?---There should be. I think there should be -

12:17:59 1 I'm not sure whether it was done initially but ultimately I
12:18:02 2 think there was a document that would have tracked the
12:18:06 3 versions.
4
12:18:08 5 The only document, the only SOP that we have has been
12:18:13 6 provided by IBAC which we understand was provided by either
12:18:17 7 you or one of your colleagues at the IBAC hearing. We
12:18:22 8 don't seem to have been provided with any SOP - - -
12:18:25 9
12:18:26 10 MR CHETTLE: There is a section in Officer Black's
12:18:28 11 statement which produces them all to the Commission.
12
12:18:32 13 MR WINNEKE: Right, okay.
12:18:33 14
12:18:34 15 MR CHETTLE: We deliberately went through every one of them
12:18:36 16 and the changes on them and he produces them.
17
12:18:40 18 MR WINNEKE: I thank my learned friend for that.
19
12:18:42 20 COMMISSIONER: Thanks Mr Chettle.
21
12:18:43 22 MR WINNEKE: I was asking about the dissemination of
12:18:46 23 information to ensure that there was appropriate oversight
12:18:48 24 in the dissemination of information. I take it information
12:18:51 25 reports were - the idea was that information reports would
12:18:58 26 be checked off by the controller before they went off out
12:19:02 27 of the control of the SDU; is that right?---Yes.
28
12:19:09 29 So they wouldn't go until they were ticked off by you, if
12:19:14 30 you were the controller?---Yes.
31
12:19:17 32 And that enabled appropriate and careful analysis of the
12:19:26 33 information going off to ensure that there was nothing in
12:19:29 34 it which might identify the source?---Yes.
35
12:19:32 36 Nothing in it which might, for example, be information
12:19:38 37 which was provided by a client of Ms Gobbo's, would that be
12:19:48 38 fair to say?---Sorry, there will be information reports
12:19:57 39 containing intelligence that was provided by Ms Gobbo that
12:20:01 40 could have even come from one of her clients.
41
12:20:06 42 Right. So we go back to this issue that I was discussing
12:20:11 43 before about [REDACTED] and the concern that arose around
12:20:15 44 that. Did you not change procedures after that to ensure
12:20:18 45 that no information went off which came from Ms Gobbo
12:20:23 46 concerning a client of hers?---No, I didn't.
47

12:20:28 1 You didn't change that despite the fact that you were
12:20:30 2 concerned, very concerned, even to the extent of
12:20:34 3 considering arresting her, in relation to [REDACTED] [REDACTED] that
12:20:38 4 didn't change?---As I said to you, information that was the
12:20:43 5 subject of LPP we did not disseminate.
6
12:20:47 7 Yes?---Information that related to ongoing and future
12:20:49 8 crimes, even if it did come from the client, we did
12:20:53 9 disseminate.
10
12:20:56 11 Okay. Despite the fact that certainly in relation to
12:20:58 12 [REDACTED] [REDACTED] it was a matter of significant concern for
12:21:02 13 you?---Well as I said to you I think the issue with
12:21:06 14 [REDACTED] [REDACTED] was the conflict of interest issue.
15
12:21:09 16 Yes?---It didn't change the fact that she provided
12:21:17 17 intelligence very serious - sorry, intelligence in relation
12:21:20 18 to very serious crimes that I did not think was the subject
12:21:24 19 of LPP, so I thought it was reasonable to disseminate it.
20
12:21:28 21 Okay. Is there a difference between information and
12:21:30 22 intelligence?---No.
23
12:21:33 24 No difference?---Not to me.
25
12:21:34 26 Not to you, right?---I've used those terms perhaps a little
12:21:38 27 bit loosely.
28
12:21:47 29 Effectively what you're saying is because the information
12:21:49 30 was significant and related to potentially significant
12:21:55 31 criminal offences, even though Ms Gobbo was providing it
12:22:00 32 about people who she was acting for, that didn't cause you
12:22:05 33 the same amount of concern that it did with respect to
12:22:09 34 [REDACTED] [REDACTED]-I don't really understand your question.
35
12:22:21 36 I don't want to labour the point but you were very
12:22:23 37 concerned about Ms Gobbo acting for [REDACTED] [REDACTED] and you've
12:22:28 38 made that very clear, correct?---Yes.
39
12:22:30 40 That's because of the conflict of interest?---Yes.
41
12:22:33 42 And that's because as she was advising a person in relation
12:22:37 43 to whom she's provided information enabling the police to
12:22:40 44 arrest him, correct?---Yes.
45
12:22:44 46 What's the difference when a subsequent - - - ?---And
12:22:47 47 then - - -

1
12:22:48 2 Yes, go on?---And then - so in relation to [REDACTED] [REDACTED] the
12:22:51 3 fact she provided the information about [REDACTED] [REDACTED] was not a
12:22:55 4 concern. The fact that she provided that information and
12:22:58 5 then went on to represent him was a concern.
6
12:23:00 7 Right?---After the arrest of [REDACTED] [REDACTED]
8
12:23:03 9 Yes?---She provided information about other people that she
12:23:08 10 was not going to represent so it was not an issue for me.
11
12:23:12 12 But what about people who she was representing?---If it was
12:23:16 13 LPP it was not disseminated. As I keep saying to you, I
12:23:23 14 didn't consider that information about other crimes as
12:23:29 15 information that I should not disseminate. I thought that
12:23:32 16 was fair game. And often times that information didn't
12:23:36 17 just come from the client, it came from other people about
12:23:41 18 a person who may be a client.
19
12:23:43 20 You're not suggesting that [REDACTED] [REDACTED] was the only person
12:23:46 21 for whom she acted in conflict?---Well the conflict in my
12:23:52 22 mind, firstly, was her issue. Secondly, the conflict arose
12:23:57 23 out of her providing that information and then wanting to
12:24:00 24 represent him.
25
12:24:01 26 Yes?---She didn't do that with anyone else.
27
12:24:04 28 I suggest that's just not correct at all. One of them was
12:24:09 29 released from custody just a few days ago?---The person
12:24:18 30 that was released a few days ago, I'm not aware of the
12:24:22 31 circumstances behind the release other than to say that
12:24:27 32 there's been suggestions that she gave information about
12:24:34 33 him.
34
12:24:36 35 Yes?---And then went on to represent him and after that in
12:24:39 36 relation to I think the murder charge.
37
12:24:41 38 Yes?---We didn't have anything to do with that.
39
12:24:45 40 Do you say you weren't aware that she'd provided
12:24:48 41 information about him which enabled members of Purana to go
12:24:57 42 and see him? Do you say that that's - you don't know
12:25:08 43 anything about that?---I don't know what information she
12:25:11 44 provided about - - -
45
12:25:16 46 We'll come back to that?---Yes.
47

12:25:20 1 There was a risk analysis done, and I'm dealing with the
12:25:24 2 provision of information and the manner and which its
12:25:29 3 disseminated, there was a risk assessment done, at least
12:25:32 4 updated on 20 April 2006, do you accept that?---Yes.
5
12:25:37 6 You were involved in the preparation of that risk
12:25:42 7 assessment?---Is my name on it?
8
12:25:46 9 Yes?---It's signed off - - -
10
12:25:51 11 It's completed by the handler on 26 April and it's got your
12:25:56 12 name against it, albeit there's no date against it. Would
12:26:00 13 that suggest that you didn't have anything to do with
12:26:03 14 it?---Am I able to see the document?
15
12:26:08 16 Yes. I've got a VPL number - can we put this up but not
12:26:17 17 put it up generally, just for the witness and the
12:26:21 18 Commissioner. VPL.2000.0003.8295. If we can scroll down
12:26:46 19 to the bottom page of that document. Can you see your name
12:26:55 20 there? If we go back to the previous page. There's no
12:26:58 21 date, do you see that?---Yes, I do.
22
12:27:02 23 Go back to the previous page. The second to last page. We
12:27:15 24 see the name of the handler there and a date on that, 26
12:27:20 25 April 2006. It appears that that was completed by the
12:27:30 26 handler on that date, do you see that?---Yes.
27
12:27:34 28 It was completed by the controller, you, but on a date
12:27:38 29 which simply isn't specified. If you were the controller
12:27:46 30 at that time one assumes that it would have been your
12:27:51 31 responsibility to satisfy yourself that the risk analysis
12:27:55 32 was correct and appropriate?---If I was the controller,
12:28:02 33 yes.
34
12:28:02 35 We see your name there. Do you say you were or
12:28:06 36 weren't?---I can't assist you from memory. It should have
12:28:09 37 had the date beside it if I'd checked it.
38
12:28:14 39 So if you were the controller of Ms Gobbo at this stage,
12:28:17 40 and I suggest you were, does that indicate that this risk
12:28:27 41 analysis - does that indicate the risk analysis would not
12:28:31 42 have been passed under your nose?---No, no. The record
12:28:36 43 will show whether I was the controller at that time.
44
12:28:38 45 Yes?---And if I was then I would be responsible for this
12:28:42 46 risk assessment.
47

12:28:45 1 Can you explain why there wouldn't be a date against your
12:28:47 2 name?---No, I can't.
3
12:28:50 4 Would that indicate lax procedures?---Well I'm not prepared
12:28:57 5 to say that because I'm not sure where this document came
12:29:01 6 from and there should be - all the documents that left the
12:29:05 7 SDU were tracked and receipted by HSMU.
8
12:29:11 9 Right?---So I'm not sure if this is a final version of that
12:29:15 10 risk assessment or not. I don't know where this has come
12:29:19 11 from.
12
12:29:24 13 To be fair, I'm told by Mr Chettle that it was approved and
12:29:28 14 it was approved by you. Assuming you were the controller
12:29:36 15 at that time it would have been approved by you?---Yes.
16
12:29:44 17 If we have a look at the risk determination on p.6 of the
12:29:50 18 document, the risk to the integrity of the information is
12:29:58 19 high, right?---Yes.
20
12:30:11 21 It says, in fact it says that there are a number of control
12:30:16 22 measures to be put in place?---Yes.
23
12:30:22 24 Secondly, it says, "Dissemination of intelligence will only
12:30:25 25 occur after consultation between the controller and the
12:30:28 26 handler in accordance with the standard operating
12:30:32 27 procedures of the Dedicated Source Unit and any other
12:30:35 28 relevant policies", right?---Yes.
29
12:30:46 30 Does that refer to information reports?---No, I'm presuming
12:30:57 31 that would occur - sorry, that will refer to dissemination
12:31:01 32 of intelligence in any way.
33
12:31:03 34 If we go down the page it says, "All verbal communications
12:31:06 35 with Operation Purana are to be conducted via the
12:31:09 36 officer-in-charge only", do you see that?---Yes.
37
12:31:13 38 Does that mean that any communication with people such as
12:31:17 39 Mr O'Brien, Mr Flynn, et cetera, would only be through
12:31:24 40 you?---No.
41
12:31:25 42 Well, that's what it seems to suggest. Indeed, it suggests
12:31:28 43 that it should only be through the officer-in-charge. You
12:31:32 44 weren't the officer-in-charge, were you?---No, what's
12:31:36 45 that's saying is the verbal communications with Operation
12:31:38 46 Purana are conducted via the OIC, that should say "of
12:31:44 47 Purana". Jim O'Brien was the point of liaison for all of

12:31:49 1 the information coming from the SDU.
2
12:31:53 3 So via the officer-in-charge of the Purana Task Force; is
12:31:56 4 that right?---Which is what Jim O'Brien was at the time.
5
12:31:59 6 Righto. That doesn't suggest that it's the OIC of the SDU
12:32:04 7 that communicates; is that right?---No.
8
12:32:07 9 Yeah, okay, all right. Would it be fair to say that the
12:32:11 10 handlers would be, on a regular basis, providing
12:32:16 11 information directly to Mr O'Brien and others?---Mostly
12:32:26 12 Mr O'Brien I think. There might have been a period there -
12:32:29 13 you'll find exceptions to that for reasons such as legal
12:32:36 14 courses when Mr O'Brien wasn't available, but they would be
12:32:40 15 few and far between I think.
16
12:32:42 17 Would it be the case that handlers would directly contact
12:32:46 18 Mr O'Brien?---Yes.
19
12:32:48 20 Or an alternative?---Yes, but as I said it was mostly
12:32:53 21 Mr O'Brien.
22
12:32:54 23 Yes, but it was, I suggest - alternatives were spoken to on
12:32:58 24 a regular basis?---I don't think it was a regular basis.
12:33:02 25 As I said, there were occasions where for leave purposes or
12:33:08 26 courses or whatever, I think you'll find examples in the
12:33:11 27 record where, for example, Inspector Ryan was doing
12:33:19 28 Mr O'Brien's job, so Inspector Ryan became the point of
12:33:22 29 liaison.
30
12:33:23 31 Yes?---You might find an occasion where perhaps Detective
12:33:32 32 Sergeant Flynn might have received a direct report because
12:33:36 33 O'Brien was unavailable.
34
12:33:37 35 What about Senior Constable Burrows?---I think with the
12:33:40 36 exception of leave, Mr Winneke, I think they were few and
12:33:43 37 far between.
38
12:33:45 39 Detective Senior Constable Burrows?---Yes.
40
12:33:50 41 Mr Kelly gave evidence that he received information
12:34:00 42 reports?---I don't know about that.
12:34:01 43
12:34:05 44 MR HOLT: Verbal information reports.
45
12:34:08 46 MR WINNEKE: Sorry, verbal dissemination of
12:34:11 47 information?---If Mr Kelly said that I don't dispute that.

1
12:34:14 2 Aside from - none of those are the officer-in-charge of
12:34:17 3 Purana, are they?---No.
4
12:34:19 5 Aside from Mr O'Brien?---Mr O'Brien and Mr Ryan.
6
12:34:23 7 Ryan?---Those two people were the officer-in-charge. But
12:34:26 8 you had to be practical about this. When they're not
12:34:31 9 available and you've got timely intelligence, you have to
12:34:34 10 do something with it.
11
12:34:36 12 On many occasions when there was timely intelligence the
12:34:39 13 handler would simply pick up the phone and convey the
12:34:41 14 intelligence?---To Mr O'Brien or Mr Ryan, yes.
15
12:34:45 16 And it would be done by way of a hot debrief?---Yes.
17
12:34:49 18 And it would be done by the handler without consultation
12:34:51 19 with the controller?---Yes.
20
12:34:55 21 So that would be in breach of the control measures that
12:35:00 22 you'd set out in your risk assessment?---Well I don't think
12:35:05 23 so ,
12:35:05 24
12:35:05 25 Well, "Dissemination of intelligence will only occur after
12:35:09 26 consultation between the controller and the handler and in
12:35:13 27 accordance with the standard operating
12:35:16 28 procedures"?---That's right. And I don't think the
12:35:18 29 standard operating procedures were that descriptive that
12:35:21 30 they couldn't talk to Jim O'Brien without first talking to
12:35:24 31 me.
32
12:35:25 33 Well - - - ?---Usually what happened was the handlers would
12:35:29 34 get the intelligence, often times they would ring me and
12:35:33 35 then they would ring Jim O'Brien. But they didn't ring me
12:35:37 36 on every occasion and as you can see, just with this one
12:35:40 37 particular source, I think there's over 3500 contacts.
38
12:35:46 39 Yes?---They weren't ringing me after every phone call
12:35:50 40 saying, "Can I please ring Jim O'Brien?"
12:35:52 41
12:35:52 42 What's the point of having a control measure which says
43 that, "Dissemination of intelligence will only occur after
12:35:56 44 consultation between the controller and the
12:35:58 45 handler"?---Well, I think you're reading that more
12:36:01 46 prescriptively than it was intended and you have to read it
12:36:04 47 in tandem with the SOPs.

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Right. What you say is that despite the fact it says that, it didn't mean that?---It was well-known for all source operations within the SDU once the point of contact liaison protocol was established particularly, that investigators could ring - sorry, handlers could ring the investigators and give them a hot debrief.

What's the point of the control measures in the risk analysis which says quite the opposite?---I've already told you, I think you're reading that too prescriptively and you have to read it in tandem with the SOPs.

In any event, what it meant was that the handlers, without any consultation between the controller, would be able to immediately disseminate information without any oversight?---That's right.

This is even after the second risk assessment which was done in April of 2004?---2004, 5.

Six I think?---Six maybe. Yes.

And even after the concerns that arose after [REDACTED] correct?---Yes.

I want to ask you about when you first came to believe that Ms Gobbo may be potentially a human source. What do you say about that?---Are you asking me when did I first become aware that she could potentially be a human source?

Yes?---So you have to refer to the source management log.

I'm asking your recollections about it, and I'm talking about a time prior to the registration of Ms Gobbo and the file concerning Ms Gobbo?---I'm not sure what you're asking but the first assessment meeting with Ms Gobbo was on 16 September 2004 - 5 sorry.

Yes?---I know that I was alerted maybe one, two, possibly three weeks before that, that it was a possibility that we would be requested to assess her as to her viability as a human source.

Who were you told about that by?---Is it possible to refer to the source management log? Because, as you know, my diary is missing for that period.

1

12:39:18 2 I don't think it's going to help you but do you have a
12:39:21 3 recollection that prior to the initial meeting on 16
12:39:30 4 September, some three to four weeks before that you had
12:39:35 5 discussions with someone about her potentially being
12:39:38 6 registered?---Yes.

7

12:39:39 8 And with whom did you speak?---It was probably Senior
12:39:43 9 Sergeant O'Brien but I think that should be noted in the
12:39:46 10 log. You're asking me to guess and I think there's
12:39:51 11 information in the log that might help you.

12

12:39:53 13 I'm not asking you to guess. Is it probably Sergeant
12:39:56 14 O'Brien that you would have spoken to?---I think it would
12:40:03 15 have been.

16

12:40:04 17 That's your recollection, is it?---No. I said to you
12:40:09 18 you're asking me to guess. I don't have a recollection of
12:40:11 19 it.

20

12:40:12 21 Right. You've said previously when you were asked about
12:40:22 22 when she was first introduced to the SDU, you said this, "I
12:40:28 23 do remember. She had at one point ended up in hospital.
12:40:32 24 She had some sort of heart complaint. We knew", and I'll
12:40:35 25 say "we", that is members of the SDU, "we were working very
12:40:41 26 closely with Purana. We knew that that had occurred and I
12:40:44 27 spoke to the head of Purana at that time, which is a fellow
12:40:47 28 called Jim O'Brien. I gave the information to him and we
12:40:49 29 discussed the possibility of seeing if she could be
12:40:53 30 recruited. We didn't pursue it because we didn't think
12:40:58 31 that quite frankly she'd come on board". You recall saying
12:41:02 32 that to Mr Kellam on your oath?---Yes, I do.

33

12:41:05 34 So you had a recollection that at some stage previously
12:41:08 35 when she was in hospital, that you considered the
12:41:12 36 possibility that she could be recruited as a human source
12:41:14 37 and you contacted Mr O'Brien, or at least the head of
12:41:19 38 Purana?---Yes.

39

12:41:25 40 That was your recollection when you gave evidence on 19
12:41:28 41 November 2014 and you maintain you were telling the truth
12:41:32 42 on that occasion?---Yes.

43

12:41:34 44 Then you go on and say this: "Then in September one of the
12:41:37 45 people within the Mokbel group, and I can't recall who it
12:41:41 46 was, was arrested and she was rung by Tony Mokbel and told,
12:41:48 47 I won't use the language but told in no uncertain terms

12:41:52 1 'get down to the police station and shut him up, make sure
12:41:54 2 he doesn't talk'", right? That was your recollection in
12:41:59 3 November of 2014?---Yes.
4
12:42:01 5 "The next morning there was a bail hearing and a Detective
12:42:04 6 Sergeant by the name of Wayne Cheesman was at the Drug
12:42:12 7 Squad then - and I might be mistaken about that, it might
12:42:16 8 be Mr Mansell or Mr Rowe - he was the one that had arrested
12:42:20 9 this individual overnight and he made a comment to
12:42:23 10 Ms Gobbo, and I can't remember what the comment was, but it
12:42:25 11 was a familiar sort of a comment", et cetera. What you
12:42:31 12 recall is that quite distinct from the call that you had
12:42:35 13 from the Drug Squad on the morning of the arrest or in
12:42:42 14 relation to the arrest, there was an earlier occasion when
12:42:45 15 you considered recruiting her?---Yes.
16
12:42:53 17 Can I ask you about that. Why did you consider recruiting
12:42:57 18 her on that earlier occasion?---As I previously stated,
12:43:05 19 Ms Gobbo, unlike most other lawyers, had a very extensive
12:43:11 20 network of social contacts.
21
12:43:13 22 Yes?---With important people involved in the, what was
12:43:18 23 known as the gangland underworld killings.
24
12:43:22 25 Yes?---And my role for that particular investigation, one
12:43:30 26 of my roles was to see if we could identify any potential
12:43:38 27 human sources that could provide intelligence about the
12:43:42 28 gangland killings and the people involved in that
12:43:44 29 particular group, which was basically the Mokbel and
12:43:47 30 Williams organised crime groups.
31
12:43:53 32 Yes?---That was an ongoing, I guess, tasking for the SDU.
12:43:59 33 So when Ms Gobbo had her, I think it was a stroke.
34
12:44:05 35 Yes?---We - well, I thought she might have been vulnerable
12:44:11 36 to an approach by the police and I talked about it with Jim
12:44:16 37 O'Brien.
38
12:44:17 39 Right. Ms Gobbo, we know, had her stroke and was
12:44:21 40 hospitalised in July of 2004, 24 July 2004, right?---Yes.
41
12:44:31 42 What that suggests is way back the previous year in July of
12:44:35 43 2004 you were considering approaching Ms Gobbo and
12:44:40 44 registering her as a human source.
12:44:42 45
12:44:43 46 MR CHETTLE: Sorry, after July. It was after July.
47

12:44:46 1 MR WINNEKE: At some stage after July of 2004?---Yes.
2
12:44:51 3 At that stage I suggest to you that - if I can put it as
12:44:58 4 blandly as I can - she was communicating with police at the
12:45:05 5 same time as representing a person who we've described as
12:45:10 6 person number ■ - ■■■■■■■■ Do you know who I'm talking
12:45:17 7 about?---No.
8
12:45:21 9 You've got Exhibit 81 there?---I have got 81.
10
12:45:34 11 Yes, yes. Look - - -?---It's not on Exhibit 81.
12
12:45:38 13 Look, you know - I think you know, I think he's referred to
12:45:46 14 in your statement - - -
12:45:53 15
12:45:53 16 MR HOLT: It might respectfully be - - -
17
12:45:57 18 MR WINNEKE: Mr Holt's getting a bit nervous.
19
12:45:59 20 MR HOLT: Yes, I am. And I think the Commissioner will
12:46:01 21 understand why.
22
12:46:02 23 COMMISSIONER: Yes, I do. Should we have a brief
12:46:04 24 adjournment?
12:46:05 25
12:46:05 26 MR HOLT: Yes, or a text could be sent to the witness, I
12:46:10 27 don't mind. For the sake of a few minutes just to make
28 sure this doesn't - - -
29
12:46:11 30 MR WINNEKE: I'm happy to text him.
12:46:12 31
12:46:13 32 MR CHETTLE: There are two names, I just want to know which
12:46:16 33 one.
12:46:16 34
12:46:17 35 MR HOLT: Could we take a few minutes just to make sure
12:46:18 36 this is done carefully.
37
12:46:18 38 COMMISSIONER: I think we'll have a short break. Hopefully
12:46:20 39 it will be very short.
40
41 (Short adjournment.)
42
12:49:33 43 COMMISSIONER: Yes, the witness is on the line. Yes,
12:52:39 44 Mr Winneke.
45
12:52:40 46 MR WINNEKE: Thank you. Can I just recapitulate, Mr White.
12:52:43 47 The recollection that you have is that Ms Gobbo - you heard

12:52:46 1 that Ms Gobbo was in hospital, correct?---Yes.
2
12:52:51 3 That information, you believe - well, it's something that
12:52:57 4 you communicated with Purana, at least a member of Purana
12:53:01 5 about?---Yes.
6
12:53:07 7 And the reason why you thought that at least potentially
12:53:11 8 she could be recruited was because, well, she was in
12:53:17 9 hospital and she may be vulnerable to an approach?---Yes.
10
12:53:26 11 And you say that you were aware that she had connections
12:53:31 12 with members of the criminal underworld, something along
12:53:39 13 those lines; is that right?---Yes.
14
12:53:44 15 Were you also aware that she had been working, or at least
12:53:53 16 having communications with members of Purana with respect
12:53:58 17 to an important statement that had been, or a number of
12:54:02 18 statements that had been taken from a person by the name of
12:54:05 19 [REDACTED]?---No.
20
12:54:08 21 Do you say that is something that you don't recall or you
12:54:13 22 definitely didn't know about that?---No, I didn't know
12:54:17 23 about that.
24
12:54:17 25 All right. Now do you say that you made the call to Purana
12:54:21 26 or the call came to you from Purana?---In relation to the
12:54:28 27 conversation about hospital?
28
12:54:29 29 Yes?---Yes. I don't recall making or receiving a call. I
12:54:34 30 just remember having the conversation with Mr O'Brien.
31
12:54:41 32 At the time in 2004 certainly the MDID was an area that the
12:54:49 33 DSU was working closely with?---Now I'm not too sure of
12:55:00 34 this. I'm not sure what date the SDU trial started, sorry,
12:55:05 35 that the DSU pilot started, because I was at the MDID and
12:55:12 36 then went from there to the DSU pilot and for a part of
12:55:17 37 that time we were [REDACTED].
38
12:55:23 39 Right. If the SDU pilot commenced in November 2004, is
12:55:32 40 that right, the DSU pilot around 2004, November?---If you
12:55:37 41 have a look at the report I did recommending the pilot, one
12:55:45 42 of those three reports gives you the dates that the pilot
12:55:51 43 actually operated from and to
44
12:55:52 45 I think it was November 2004 through to May 2005?---Right.
46
12:55:59 47 Assuming that's right, where would you - how does that

12:56:05 1 place your recollection, your conversation with
12:56:09 2 Mr O'Brien?---It doesn't really help. I may have well been
12:56:15 3 at MDID at that time. I'm guessing that I may have been
12:56:20 4 working on the research phase of the project.
5
12:56:26 6 Right, and it may have been - sorry, go on?---Probably out
12:56:29 7 of the same floor as Jim O'Brien.
8
12:56:32 9 But in any event the discussion that you can distinctly
12:56:35 10 recall is Nicola Gobbo's in hospital, it may be an
12:56:38 11 opportunity for her to be recruited?---Yes.
12
12:56:46 13 You were obviously aware at that stage that she was a
12:56:49 14 barrister?---Yes.
15
12:56:56 16 There are plenty of other barristers around but you say you
12:57:00 17 focused on her, one, because she was in hospital but, two,
12:57:04 18 because it appeared that she had links with a significant
12:57:08 19 number of criminals; is that right?---It was known at the
12:57:12 20 time that she had a big social network of people.
21
12:57:15 22 Social network?---That's right.
23
12:57:16 24 But also she acted for these people?---She acted for some,
12:57:21 25 yes.
26
12:57:21 27 And you were aware certainly in 2004 that she was acting
12:57:24 28 for at least Mr Mokbel?---I'm not sure if I was aware of
12:57:32 29 that at the time. I may have been but I can't recall.
30
12:57:34 31 Assuming you're in at least close connection with the Drug
12:57:43 32 Squad, I suggest it would have been apparent to you that
12:57:45 33 she was acting for Mr Mokbel, do you - - - ?---I'm just
12:57:50 34 simply saying to you I can't recall.
35
12:57:51 36 Do you accept it's likely you would have if that's the
12:57:54 37 case, or was the case?---I accept it's a possibility. I
12:57:57 38 can't shed any more light on it than that.
39
12:58:00 40 Did you speak to anyone aside from Mr O'Brien about the
12:58:03 41 potential of recruiting Ms Gobbo as an informer back in
12:58:07 42 2004?---No.
43
12:58:11 44 Was it your suggestion to him or was it his suggestion to
12:58:15 45 you?---I can't recall.
46
12:58:18 47 Was it one conversation only or were there more than - was

12:58:23 1 it more than one conversation?---It was one conversation.
12:58:26 2 It was a short conversation. You know, there was no
12:58:33 3 analysis of risk or liability or anything like that. It
12:58:44 4 was just, I suppose, a very general conversation.
5
12:58:46 6 After that time - I mean obviously after that time it's
12:58:50 7 something that you had considered subsequently I take
12:58:53 8 it?---Sorry, I considered whether we should have approached
12:59:01 9 her or not at that time?
10
12:59:02 11 Yes?---Oh, I didn't consider it until I was asked at IBAC
12:59:09 12 if it had ever been considered and I had that recollection.
12:59:14 13 It's not a very specific recollection but I haven't had to
12:59:19 14 consider it because ultimately we ended up having a
12:59:24 15 relationship with her that really had nothing to do with
12:59:27 16 that thought previously.
17
12:59:38 18 Then you say that you had a discussion with Mr O'Brien
12:59:42 19 perhaps three or four weeks prior to 16 September; is that
12:59:51 20 right?---Yes.
21
12:59:53 22 That was prior to the approach by Mr Rowe and/or
13:00:04 23 Mr Mansell?---I don't know. I don't know whether
13:00:08 24 Mr Mansell might have spoken to me about it first or
13:00:11 25 whether Mr O'Brien did.
26
13:00:13 27 But your recollection is that three or four weeks prior to
13:00:18 28 16 September?---It's not my recollection, it's information
13:00:25 29 I got out of my log.
30
13:00:29 31 Out of the source management log; is that right?---That's
13:00:32 32 right.
33
13:00:34 34 The first entry is on 7 September in the source management
13:00:43 35 log?---Can I have a look at that?
36
13:00:47 37 By all means?---I have a copy here. That's right.
38
13:00:51 39 Do you say that that's the first - it doesn't mention
13:00:57 40 anything about Mr O'Brien, it talks about a request by
13:01:01 41 Superintendent Hill, "MDID to assist re assessment of human
13:01:08 42 source. Has approached Mansell and Cheesman. In emotional
13:01:11 43 state now, concerned for her welfare. Wants to talk re
13:01:15 44 association with Mokbel crew". That's on 7 September. Did
13:01:18 45 you make that entry in the source management log?---Yes.
46
13:01:22 47 And there's no reference to Mr O'Brien on that date but the

13:01:25 1 first reference to Mr O'Brien in the source management log
13:01:28 2 is on 19 September. So what I suggest is that you had a
13:01:34 3 discussion prior to 7 September with Mr O'Brien?---Well, I
13:01:43 4 don't know that this entry on the 7th of September was
13:01:50 5 contemporaneous and it's certainly not accurate because I'm
13:01:52 6 well aware now that Mr Cheesman was not with Mr Mansell
13:01:55 7 when the approach was made. So that's inaccurate.

8
13:01:58 9 Yes?---I might have had a conversation with Mr O'Brien. If
13:02:02 10 I had my diary I would be able to be a lot more certain
13:02:09 11 about that, but I can just about guarantee Mr O'Brien will
13:02:14 12 have a notation in his diaries.

13 13
13:02:19 14 Commissioner, I note the time.

15
13:02:20 16 COMMISSIONER: All right then. We'll adjourn until 2
13:03:01 17 o'clock.

13:03:02 18
13:03:03 19 <(THE WITNESS WITHDREW)

13:03:11 20
21 LUNCHEON ADJOURNMENT

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13:57:26 1 UPON RESUMING AT 2.07 PM:
14:07:19 2
14:07:19 3 COMMISSIONER: Mr Chettle.
14:07:20 4
14:07:20 5 MR CHETTLE: Commissioner, I'm sorry to interrupt the flow
14:07:22 6 but I want to bring a matter to your attention which has
14:07:25 7 concerned us and in my submission is pretty unfair to this
14:07:29 8 witness. The documents that he was cross-examined on this
14:07:31 9 morning, the informer contact reports, are not the Unit's
14:07:36 10 documents. Now that is a proposition you'll find
14:07:42 11 startling. You will have in the next statements, which I
14:07:45 12 know no one's got yet, from Officer Fox and Officer Wolf,
14:07:52 13 who are both serving members - I'm sorry, Officer Fox and
14:07:58 14 Black, are both as you know current serving members and
14:08:00 15 they have been doing a lot of work in relation to this
14:08:03 16 case. Can I give you the short version. SDU filed an
14:08:12 17 informer contact report. At the same time another one was
14:08:16 18 filed over the top of it which meant that to look at it the
14:08:19 19 first one disappeared. Loricated created these documents
14:08:25 20 in an attempt to recreate what it was the SDU maintained as
14:08:29 21 a record. What they thought was is that there had never
14:08:33 22 been one filed by Officer Peter Smith and there had been.
14:08:37 23 So what they did is they recreated that ICR by going to his
14:08:41 24 diary, doing a cut and paste from his diary, and then
14:08:45 25 sought to inject it into the system. But it needed a
14:08:51 26 number then. So they gave it a number, which meant that
14:08:53 27 all the other numbers had to be adjusted, and when one
14:08:56 28 looks at the chart of, the contact report dissemination
14:09:06 29 matrix which has been served, it traces where everyone
14:09:11 30 went. And other members of the Bar table have picked it
14:09:15 31 up. They are all one number out for a start. The metadata
14:09:19 32 on these documents show that they were created in 2013 and
14:09:23 33 14, not when we did them. The point was made this morning
14:09:28 34 in relation to this witness that he hadn't signed off on a
14:09:34 35 whole, one was taken, he was taken to one ICR by Mr Winneke
14:09:38 36 and it was an ICR supposedly completed by Mr Fox as the
14:09:43 37 handler and the controller's name was blank. I just simply
14:09:49 38 point out, Commissioner, that if you look at every single
14:09:52 39 one from p.1030 to 1528 is a block of ICRs prepared by that
14:09:59 40 same handler. There's no signature on any of them by the
14:10:03 41 controller, or no endorsement by the controller, signed or
14:10:07 42 typed. That's because they're not our documents. These
14:10:11 43 are copies or reproductions that have been pulled from
14:10:14 44 somewhere. What's happening here, and what I want to
14:10:17 45 raise, you will have evidence about all this and it's
14:10:19 46 complicated, but why I am concerned, as you know,
14:10:24 47 Commissioner, we maintain that Mr Comrie didn't get the

14:10:27 1 correct documents. Loricated was done in order to try and
14:10:30 2 recreate what we had but they're not our documents, they
14:10:35 3 are the Loricated documents. So what's in here and drawing
14:10:39 4 inferences adverse to Mr White, as was done this morning,
14:10:44 5 in relation to he's very slack, he hasn't signed off on any
14:10:48 6 of these and there was no governance, is not an inference
14:10:50 7 that can properly be drawn because they're not our
14:10:53 8 documents. That in summary is what concerns me. I've
14:10:56 9 raised it briefly with Mr Winneke and I wanted to raise it
14:11:01 10 with you. Our records were maintained on what's called the
14:11:06 11 Z drive and the HSMU G drive. I think you've had evidence
14:11:10 12 in relation to that. When I say our, the SDU records.
14:11:14 13 These are not the SDU records. And so I am concerned that
14:11:17 14 you are being - - -
14:11:17 15
14:11:17 16 COMMISSIONER: Do your comments apply to all three volumes
14:11:20 17 of ICRs I've been provided with by Victoria Police?
14:11:24 18
14:11:25 19 MR CHETTLE: Yes, they are all off Loricated.
14:11:27 20
14:11:27 21 COMMISSIONER: They are all documents that were
14:11:28 22 manufactured from original material for the Loricated
14:11:34 23 database?
14:11:35 24
14:11:35 25 MR CHETTLE: They've all been put on Loricated by people
14:11:35 26 other than us. They are not our records.
14:11:37 27
14:11:37 28 COMMISSIONER: Can we not draw the inference that they were
14:11:41 29 produced from original documents which had that information
14:11:44 30 on them?
14:11:45 31
14:11:45 32 MR CHETTLE: Some of it, yes. Can I say until you get
14:11:48 33 evidence from people who know more about this than I do,
14:11:51 34 and the officers who have been going through it, and it
14:11:55 35 doesn't include Sandy White, he is no longer a serving
14:12:00 36 member and as you know he has had limited access to this.
14:12:04 37 But the other serving members have done a lot of work on
14:12:09 38 this trying to work out what happened with - - -
14:12:09 39
14:12:14 40 COMMISSIONER: Some of them do have his name on the
14:12:14 41 supervisor.
14:12:14 42
14:12:15 43 MR CHETTLE: Yes, they do. Sometimes - when they've
14:12:16 44 reproduced they've reproduced some of them accurately but
14:12:18 45 not all of them. It is simply impossible to make the point
14:12:20 46 obvious, that every single one of the ICRs prepared by
14:12:23 47 Officer Fox were not checked by a controller. The fact

14:12:28 1 that there's so many of them, and there's hundreds of pages
14:12:31 2 of them, demonstrates that the system's failed. They are
14:12:35 3 my instructions and there's going to be evidence in
14:12:37 4 relation to that led before you. But given what occurred
14:12:40 5 this morning and the way in which everybody's quick to draw
14:12:45 6 an adverse inference against a witness or make adverse
14:12:48 7 comments against the SDU based on documents, it's important
14:12:51 8 that you understand, Commissioner, in my submission that
14:12:54 9 these aren't my documents.

14:12:56 10
14:12:56 11 COMMISSIONER: Your point is well understood, thank you
14:13:01 12 Mr Chettle. No doubt we will hear evidence about this
14:13:05 13 throughout - - -

14:13:06 14
14:13:06 15 MR WINNEKE: It ought to be made plain, I mean we've been
14:13:10 16 relying on documents which have been provided by Victoria
14:13:13 17 Police which we assume are, albeit they may not be in the
14:13:18 18 original form that they were in in the SDU file.
14:13:23 19 Nonetheless they are documents which contain the same
14:13:27 20 information as was in documents in the SDU file. Say, for
14:13:35 21 example, the document that I referred to and I asked the
14:13:38 22 witness about suggested that it was created in, I think,
14:13:46 23 January of 2008 in relation to information that was
14:13:50 24 obtained by members of the SDU in October of 2007. And
14:13:58 25 though the actual words set out in the document, I assume,
14:14:01 26 are the exact words which are in the ICR which was then
14:14:06 27 created. If we're wrong about that we better be told.

28
29 COMMISSIONER: Yes.

30
14:14:09 31 MR WINNEKE: Because we've been provided and been operating
14:14:12 32 on the assumption that the information in the ICRs and
14:14:14 33 members of counsel at the Bar table I see are reading them
14:14:17 34 and relying on them, if they're not to be relied upon I'm
14:14:22 35 astounded we haven't been told.

14:14:26 36
14:14:26 37 COMMISSIONER: No doubt we'd have to be hear something from
14:14:31 38 the police who are responsible for putting documents into
14:14:31 39 Loricated. I did find one though, for example, that said
14:14:35 40 that this is - the one that finishes in the VPL number 2616
14:14:42 41 at p.1030 of the material I have, the date range was from
14:14:47 42 18 July 07 to 22/7/07, and it's signed off by the handler
14:14:55 43 on 17 March 07, which was before the events it covers.

14:15:01 44
14:15:02 45 MR WINNEKE: I have appreciated that there appears to be a
14:15:04 46 one off difference between the number of the ICR and some
14:15:06 47 of the records and indeed the numbers that Mr Comrie had in

14:15:11 1 relation to some of them appear to be one off. That may
14:15:14 2 well be what my learned friend is talking about. But
14:15:16 3 nonetheless the documents - and we do have, it seems that
14:15:17 4 we do have duplicates in relativity of the same document
14:15:22 5 with the one different number but it still has the same
14:15:26 6 date and the same contents, so the same date that it's been
14:15:31 7 signed off or not signed off and the same content, exactly
14:15:34 8 the same. The only difference appears to us to be is the
14:15:37 9 number of the ICR.

14:15:40 10
14:15:40 11 MR CHETTLE: That's not the case.

14:15:41 12
14:15:42 13 MR WINNEKE: If that's not the case we better understand
14:15:44 14 what it is.

14:15:45 15
14:15:45 16 MR CHETTLE: All those ICRs prepared by Mr Fox, my
14:15:48 17 understanding were the subject of being checked by
14:15:50 18 controllers and signed off. What's been put in here are
14:15:53 19 not our documents. That's the example. This morning
14:15:57 20 there's a suggestion that the SDU documents were slack,
14:16:02 21 we're having an inquiry in relation to whether their
14:16:06 22 records are proper. More importantly it was put there was
14:16:09 23 no governance on what the handlers were doing because it
14:16:13 24 wasn't signed off by people. That conclusion, and I think
14:16:16 25 the witness said that's one of the conclusions you could
14:16:19 26 draw, but he doesn't know about the fact of what happened
14:16:21 27 with these documents.

14:16:23 28
14:16:23 29 MR WINNEKE: I don't think I was being unfair to the
14:16:24 30 witness because I was simply going on what he said. His
14:16:26 31 response to Mr Comrie's findings at that point, in fact he
14:16:30 32 said it was the only thing he agreed about with respect to
14:16:35 33 Mr Comrie's findings.

14:16:37 34
14:16:38 35 MR CHETTLE: Mr Winneke, you missed the point with respect.
14:16:38 36 I'm not talking about whether or not they are late. He
14:16:41 37 agrees they are a month or so late or months later. What
14:16:44 38 I'm talking about is whether or not they were endorsed by
14:16:47 39 the controller in the controller box. Mr Winneke's point
14:16:51 40 was there was no governance of the handler because they
14:16:54 41 weren't checked by the controller.

14:16:55 42
14:16:55 43 COMMISSIONER: I understand. Mr Holt, it seems to me it
14:17:02 44 would be desirable in light of what Mr Chettle's just
14:17:07 45 raised for statements to be taken from Victoria Police from
14:17:11 46 those who were responsible for transposing the information
14:17:14 47 from the original source material into Loricated.

14:17:17 1
14:17:17 2 MR HOLT: Yes, there needs to be clarity about that,
14:17:20 3 Commissioner. This is a matter only just raised so I can't
14:17:21 4 provide a technical response.
5
6 COMMISSIONER: Of course.
7
8 MR HOLT: But I'll ensure that that's done.
9
10 COMMISSIONER: If you could do that as soon as possible.
11
14:17:23 12 MR HOLT: We know who that is because it's a person we've
14:17:26 13 had to consult on occasions about things so I'm certain
14:17:29 14 that can be done. I will provide the Commission with an
14:17:30 15 update in the morning if that would be sufficient.
14:17:31 16
14:17:32 17 COMMISSIONER: Yes. It would be surprising if the material
14:17:36 18 isn't but it was done accurately.
14:17:37 19
14:17:38 20 MR HOLT: Commissioner, what's clear from material that's
14:17:39 21 already been provided to the Commission about Loricated and
14:17:42 22 how it was done is that there was an aspect of
14:17:45 23 reconstruction necessary.
24
25 COMMISSIONER: Yes.
26
14:17:46 27 MR HOLT: Indeed that was an recommendation of the Comrie
14:17:49 28 report, as the Commissioner will know. I think the
14:17:51 29 question really is what that looked like and what it meant
14:17:54 30 and what the source documents were. That's what's being
14:17:56 31 raised. I'm aware that some matters that our learned
14:17:59 32 friend Mr Chettle has raised are not consistent with my
14:18:02 33 understanding of it, but I don't want to simply get into an
14:18:04 34 argument based on an absence of evidence. I'll make those
14:18:06 35 inquiries Commissioner.
14:18:06 36
14:18:07 37 COMMISSIONER: Presumably it means it's another step which
14:18:09 38 would allow for human error.
39
40 MR HOLT: Of course.
41
14:18:13 42 COMMISSIONER: And the one that I pointed out, for example,
14:18:15 43 where the date is obviously wrong.
14:18:16 44
14:18:17 45 MR HOLT: And indeed the ones that Mr Chettle points out
46 where there's a series of the absence of data in a document
14:18:23 47 tends to indicate at least the possibility of some system

14:18:25 1 error and that needs to be reviewed and I'll do that.
14:18:28 2 Thank you Commissioner.
14:18:29 3
14:18:29 4 COMMISSIONER: Thank you. Yes Mr Winneke. Are you ready,
14:18:37 5 Mr Winneke, for the witness to be telephoned?
14:18:51 6
14:18:51 7 MR WINNEKE: I am.
14:18:53 8
14:18:56 9 <SANDY WHITE, recalled:
14:19:52 10
14:19:52 11 COMMISSIONER: Yes, thanks Mr White. Can you hear me? Can
14:19:57 12 you hear me, Mr White?---Yes I can, Commissioner.
14:20:02 13
14:20:03 14 Thank you. Yes Mr Winneke.
14:20:04 15
14:20:05 16 MR WINNEKE: Thank you Commissioner. Now, Mr White, you
14:20:13 17 understand that, do we understand that the SDU in around
14:20:21 18 2005 had a close relationship with Purana because it was -
14:20:36 19 perhaps I'll put it this way. Certainly it had a close
14:20:40 20 relationship with the MDID in 2005?---Yes.
14:20:44 21
14:20:45 22 And you were communicating regularly with Mr O'Brien in
14:20:50 23 2005, leading into September of 2005?---So at that time
14:21:06 24 you're aware that Mr O'Brien was one of the investigations
14:21:11 25 managers at MDID?
14:21:14 26
14:21:15 27 Yes, I do?---He wasn't part of Purana.
14:21:17 28
14:21:19 29 No, I understand that. In 2005 up until about September he
14:21:21 30 was with the MDID?---Yes.
14:21:25 31
14:21:25 32 I think you've said previously that drug investigation,
14:21:29 33 significant amounts of drug investigations involved
14:21:32 34 informers, human sources?---Yes.
14:21:35 35
14:21:35 36 And that's your business?---It had been at that point in
14:21:41 37 time, yes, up until, right up until I was put on to this
14:21:46 38 project.
14:21:47 39
14:21:47 40 Once the SDU got up and running in about April of 2005 a
14:21:51 41 lot of its business was with the MDID?---I can't remember.
14:22:01 42 We certainly had jobs with the MDID. I'm not sure who were
14:22:06 43 our biggest client, I guess.
14:22:10 44
14:22:10 45 One would assume, I mean you were saying before that the
14:22:14 46 majority of the business of investigating drug activities
14:22:18 47 was, or at least 80 per cent of it involved, at least 80

14:22:23 1 per cent of it involved human sources, the likelihood is
14:22:25 2 that that would have continued into, into both the pilot
14:22:31 3 stage of the DSU and once the SDU came into
14:22:39 4 operation?---Yes. What you have to realise is I had come
14:22:43 5 from the [REDACTED] area. Mr Black was from [REDACTED] Mr Green
14:22:50 6 was from [REDACTED] and Mr Smith was from [REDACTED].
14:22:57 7
14:22:57 8 Right?---That were all selected primarily because of their
14:23:03 9 experience and integrity but also because they could sell
14:23:06 10 the concept of high risk source management by the SDU
14:23:11 11 within those squads. So we had a smattering of jobs from
14:23:16 12 right across the Crime Department. At this point in time I
14:23:20 13 can't tell you whether we had more [REDACTED] or
14:23:29 14 [REDACTED] crime.
14:23:30 15
14:23:30 16 I follow that. In any event there's no question that you
14:23:30 17 were dealing with Mr O'Brien throughout 2005, both with the
14:23:34 18 pilot and the SDU?---Yes.
14:23:36 19
14:23:37 20 And also Purana was a client?---I don't recall having a
14:23:50 21 source for Purana.
14:23:51 22
14:23:52 23 How many sources were there in the pilot scheme?---You
14:23:59 24 would have to go to the review document entitled Findings
14:24:06 25 of the Dedicated Source Unit.
14:24:06 26
14:24:06 27 All right?---That has a breakdown of where they were from
14:24:09 28 and how many there were.
14:24:10 29
14:24:11 30 I follow that. That will set out the accurate results of
14:24:14 31 that?---Yes, it will.
14:24:16 32
14:24:16 33 All right. Were you aware that in 2005 Purana, and indeed
14:24:25 34 from late 2004, was operating a Task Force called Operation
14:24:37 35 Posse?---Posse?
14:24:38 36
14:24:39 37 Yes?---I think - now I have heard of Posse and I thought
14:24:47 38 Posse was an investigation, an investigation started up
14:24:54 39 after Ms Gobbo was registered.
14:24:56 40
14:24:56 41 It certainly came to Purana after Ms Gobbo was registered
14:25:03 42 and indeed a large part of the reason why it did is because
14:25:07 43 Mr O'Brien ended up going to Purana. I withdraw that.
14:25:12 44 Ms Gobbo's involvement was fundamental to the operation,
14:25:19 45 certainly as far as the SDU was concerned?---Was [REDACTED]
14:25:26 46 [REDACTED]?
14:25:29 47

14:25:30 1 [REDACTED] [REDACTED]
14:25:35 2 subject of the operation, including members of the Mokbel
14:25:39 3 family?---Yes.
14:25:39 4
14:25:41 5 Now you understood that - - - ?---And that - sorry, that
14:25:46 6 was led by Senior Sergeant O'Brien.
14:25:51 7
14:25:51 8 What I'm suggesting to you is that Purana commenced that
14:25:55 9 operation in 2004 and continued it through into 2005?---I
14:26:05 10 would have no idea of that.
14:26:07 11
14:26:07 12 It was never suggested to you when you became involved that
14:26:10 13 that operation had been running for some time?---No. No,
14:26:19 14 not specifically in that context.
14:26:21 15
14:26:22 16 Not that you can recall anyway?---No.
14:26:23 17
14:26:24 18 Would you agree that it took on a new life when Ms Gobbo
14:26:27 19 became involved and the DSU became involved, or SDU?---Yes,
14:26:34 20 I would.
14:26:34 21
14:26:36 22 All right then. Were you aware that Purana had conducted
14:26:44 23 detailed analysis in 2005 involving compiling information
14:26:53 24 reports and analysing material concerning [REDACTED] y
14:26:58 25 and [REDACTED]?---Yes.
14:27:01 26
14:27:02 27 And you were aware that that investigation involved
14:27:07 28 examination of money laundering activities?---I think there
14:27:18 29 was some ACC hearings in relation to that.
14:27:20 30
14:27:20 31 Yes?---I think that was the focus.
14:27:23 32
14:27:23 33 Yes. Now, what I'm suggesting to you, I'm asking you if
14:27:28 34 you were aware that this was going on prior to your
14:27:32 35 involvement with the SDU in that operation?---No, I've got
14:27:37 36 no idea.
14:27:38 37
14:27:38 38 And again you wouldn't be able to say whether you were told
14:27:41 39 or whether that information was shared to you?---No.
14:27:45 40
14:27:47 41 With you, all right. Do you know whether there was a view
14:27:55 42 that it was necessary in order to successfully investigate
14:28:00 43 and prosecute [REDACTED] that it was
14:28:06 44 necessary to think outside the box, if you like, with a
14:28:11 45 view to using human sources and other means to
14:28:19 46 prosecute?---Using human sources is not thinking outside
14:28:23 47 the box for investigators that work in the drug field or

14:28:29 1 the organised crime or Asian field. They're primarily
14:28:33 2 proactive investigative groups unlike the traditionally
14:28:39 3 reactive groups like Homicide and sex crimes.
14:28:43 4
14:28:43 5 Certainly using a lawyer would be thinking outside the box,
14:28:46 6 wouldn't it?---It's unique, yes.
14:28:49 7
14:28:52 8 Can I ask you whether in 2005, leading into the
14:29:06 9 registration of Ms Gobbo, you were aware that she was
14:29:10 10 providing information to Mr Bateson?---No, I wasn't.
14:29:17 11
14:29:20 12 The Royal Commission's heard evidence that Mr Bateson was
14:29:23 13 receiving evidence or receiving information from Ms Gobbo
14:29:28 14 from about March of 2005 through to about August of 2005.
14:29:36 15 Did you become aware of that?---I became aware of
14:29:44 16 Ms Gobbo's relationship with, well, then Sergeant Bateson
14:29:51 17 after conversations with Ms Gobbo herself.
14:29:56 18
14:29:56 19 So you didn't know until 16 September that Mr Bateson had
14:30:00 20 been communicating with Ms Gobbo you say?---I don't know if
14:30:10 21 16th of September is the right date but it's some time
14:30:12 22 after we established a relationship with her she told me
14:30:16 23 that she'd spoken to Detective Sergeant Bateson.
14:30:19 24
14:30:20 25 What did she tell you?---Basically that she was involved
14:30:24 26 with, I just have to find his number - sorry, it's [REDACTED]
14:30:49 27 [REDACTED]. Ms Gobbo told me she had some involvement with [REDACTED]
14:30:55 28 [REDACTED].
14:30:55 29
14:30:56 30 In relation to her dealings with Mr Bateson?---Yes.
14:30:58 31
14:31:00 32 MR HOLT: Commissioner, I'm sorry to - yes. Something that
14:31:05 33 was said in the background was something which shouldn't
14:31:08 34 have been said in terms of a name.
14:31:13 35
14:31:13 36 COMMISSIONER: I didn't hear it but - - -
14:31:16 37
14:31:16 38 MR WINNEKE: I didn't hear it.
14:31:17 39
14:31:17 40 COMMISSIONER: Some people did, so it will be removed of
14:31:20 41 course from the transcript.
14:31:25 42
14:31:25 43 MR HOLT: It's at the other end. Can I just ask there
14:31:28 44 shouldn't really be any communication going on in the room,
14:31:31 45 I understand assistance was being sought in terms of a name
14:31:35 46 on 81B, but we're at such high risk territory in relation
14:31:38 47 to that. Might I just check something for a moment. I

14:31:45 1 think that matter, given the nature of the person is
14:31:48 2 already sufficiently protected by a suppression order,
14:31:53 3 Commissioner. If we just ensure that that doesn't occur
14:31:58 4 I'd be grateful.
14:31:59 5
14:31:59 6 COMMISSIONER: All right. Whoever is in the room with you,
14:32:01 7 Mr White, if they could take note that they mustn't be
14:32:04 8 communicating with you. Although they can assist you with
14:32:08 9 documents they mustn't speak?---Yes, Commissioner.
14:32:11 10
14:32:11 11 MR CHETTLE: To be fair I think it is a Commission staff
14:32:14 12 member.
14:32:14 13
14:32:14 14 COMMISSIONER: Yes, it is.
14:32:15 15
14:32:15 16 MR CHETTLE: We texted some material to - it's unfortunate
14:32:19 17 it happened but it was part of the process we engaged in to
14:32:22 18 make sure the witness knew the appropriate pseudonyms.
14:32:28 19
14:32:30 20 COMMISSIONER: It just highlights the care that we must all
14:32:32 21 be taking in the giving of this evidence. If the member of
14:32:38 22 the Commission staff or legal team who is helping there
14:32:40 23 could keep that in mind in future. Thank you.
14:32:44 24
14:32:44 25 MR WINNEKE: Thanks, Commissioner. Can I tell you this,
14:32:55 26 that on about five or six occasions from around March of
14:32:59 27 2005 through to September, August/September of 2005, indeed
14:33:06 28 September, Ms Gobbo was providing to Mr Bateson information
14:33:13 29 concerning money laundering, concerning Mr Mokbel,
14:33:25 30 concerning Mr George Williams and concerning various
14:33:29 31 lawyers, which information was actioned, it appears, and
14:33:33 32 there were ACC hearings based on that information. With
14:33:39 33 that knowledge in mind, does that suggest to you an
14:33:46 34 informer/handler relationship between Ms Gobbo and
14:33:51 35 Mr Bateson?---My understanding was that Ms Gobbo was
14:34:04 36 representing ██████████. I had no idea what other
14:34:13 37 conversations were happening with that person other than
14:34:19 38 ██████████, and Mr Bateson. I didn't talk to Mr Bateson. I
14:34:24 39 didn't get involved in that matter. It was a matter that
14:34:27 40 occurred before we took her on and it was none of our
14:34:31 41 business.
14:34:31 42
14:34:31 43 But that wasn't the question I asked. The question I asked
14:34:34 44 was that if - I'll give you a bit more information. There
14:34:39 45 were arrangements to meet and there were meetings at places
14:34:42 46 such as cafés with the express purpose of providing
14:34:47 47 information of that sought to Mr Bateson by Ms Gobbo, who

14:34:52 1 then reported it to other people and it was actioned. Now
14:34:58 2 - and no witness statements were taken or anything of that
14:35:01 3 sort as far as we know. What I asked you was, is that in
14:35:06 4 the nature of an informer/handler relationship?---From the
14:35:10 5 facts that you provided, yes, it may well be.
14:35:18 6
14:35:19 7 And it seems almost invariably Mr Bateson would tell
14:35:23 8 Mr Ryan about the information that he received, Gavan Ryan,
14:35:27 9 who was effectively operating as a controller, and it seems
14:35:33 10 that that information was actioned. Now that has all the
14:35:37 11 hallmarks of an informer relationship, doesn't
14:35:41 12 it?---Potentially, but you're asking me to make comments
14:35:44 13 about what other people did that I have no knowledge of.
14:35:48 14
14:35:48 15 I'm giving you the knowledge?---You're giving me certain
14:35:52 16 facts but I like to know the whole situation before I make
14:35:56 17 a determination about that.
14:35:56 18
14:35:57 19 What other information would you need?---I would like to
14:36:00 20 know exactly what the nature of the information was, who it
14:36:03 21 was from, who it related to, how it was actioned, how it
14:36:06 22 was recorded, who knew about it. A whole range of things.
14:36:09 23
14:36:09 24 I've given you a fair bit of those things. I told you it
14:36:14 25 was from Ms Gobbo, it was about money laundering?---My
14:36:16 26 response to you was on the facts you provided me it does
14:36:21 27 appear it could have been a source relationship. I can't
14:36:24 28 take it any further than that.
14:36:26 29
14:36:26 30 At that stage what was the situation with respect to the
14:36:36 31 registration of informers in March of 2005? What policies,
14:36:40 32 what procedures were in place?---You're asking me about
14:36:43 33 events and policy for something that happened 15 years ago.
14:36:48 34 I can't help you there. But you've got the documents I
14:36:52 35 believe. You'll have the definition of an informer, you
14:36:55 36 should have the definition of informer relationship, I'm
14:36:58 37 not exactly sure how it was described back then. You will
14:37:01 38 have a lot more information available to you than I have
14:37:06 39 from my memory.
14:37:06 40
14:37:07 41 On the face of it does it seem there would be reason to
14:37:11 42 think those communications should have been through a
14:37:14 43 registered informer?---I already answered that question.
14:37:17 44
14:37:17 45 So you don't know?---I don't know without the full extent
14:37:21 46 of the information.
14:37:22 47

14:37:31 1 Can I tell you also that Mr Ryan has made a statement to
14:37:34 2 the effect that he advised Mr Bateson that he should
14:37:40 3 contact the SDU, right? Now, is that the first you've
14:37:45 4 heard of that?---Yes, it is.
14:37:47 5
14:37:49 6 And would that seem to be appropriate advice?---Mr Ryan is
14:37:54 7 a competent investigator. I would think any advice from
14:38:00 8 Mr Ryan is good advice.
14:38:01 9
14:38:01 10 Did you ever speak to Mr Ryan about Ms Gobbo prior to your
14:38:11 11 activities concerning the registration of Ms Gobbo?---No.
14:38:15 12
14:38:16 13 Did you ever speak to Bateson?---No.
14:38:19 14
14:38:20 15 About Ms Gobbo?---Not to my recollection.
14:38:23 16
14:38:31 17 It appears that, and you understand this, that Ms Gobbo
14:38:36 18 spoke to Mr Rowe and Mr Mansell on 31 August 2005 and you
14:38:48 19 understood that she was concerned about a conflict between
14:38:52 20 Mr Mokbel and another person who she was asked to
14:38:59 21 represent - I'm looking at Mr Holt to see whether I'm
14:39:06 22 allowed to mention his name.
14:39:09 23
14:39:10 24 MR HOLT: Can I just approach my friend? Commissioner, my
14:39:41 25 friend has raised probably the trickiest issue that exists
14:39:45 26 in relation to the question of the impact of suppression
14:39:48 27 orders because of recent changes that were made to a
14:39:51 28 particular one. I'd respectfully ask if this particular
14:39:53 29 topic might be held over and we if we could be given notice
14:39:55 30 - - -
14:39:55 31
14:39:55 32 MR WINNEKE: I'm not going to hold the topic over.
14:39:58 33
14:39:59 34 MR HOLT: Then could I have five minutes to confer with my
14:40:02 35 learned friend to ensure that there are no breaches of
14:40:26 36 suppression orders, Commissioner. I can't - I simply can't
14:40:27 37 do it on my feet. I wasn't given notice of it.
14:40:28 38
14:40:28 39 COMMISSIONER: Yes.
40
41 MR HOLT: Thank you.
42
43 COMMISSIONER: We'll adjourn for a few minutes.
14:40:30 44
14:40:35 45 (Short adjournment.)
14:50:47 46
14:50:48 47 COMMISSIONER: Just waiting for the witness - here he is.

14:50:51 1 Yes, thanks Mr White. Yes Mr Winneke.
14:50:53 2
14:50:53 3 MR WINNEKE: Thanks Commissioner. I take it you had a
14:50:58 4 briefing prior to your first meeting with Ms Gobbo?---Yes.
14:51:07 5
14:51:08 6 Who did you have that briefing with?---Well, I'm looking at
14:51:15 7 my source management log and it says Hill, White, Mansell
14:51:24 8 and Rowe.
14:51:25 9
14:51:31 10 There's some suggestion that on 31 August, after Mr Mansell
14:51:37 11 and Rowe spoke with Ms Gobbo and then had their discussion
14:51:42 12 with Mr O'Brien, there was a discussion between Mr O'Brien
14:51:54 13 and Mr Ryan at Purana. Now, it's then suggested that
14:52:01 14 either Mr Mansell or Mr O'Brien spoke with the SDU on or
14:52:06 15 about 31 August, so the very day Ms Gobbo made it clear to
14:52:11 16 the MDID that she was, she felt conflicted between her
14:52:19 17 interest in representing **Mr Bickley** and her general
14:52:23 18 retainer for Mr Mokbel, there was some discussion with you
14:52:27 19 on the 31st, or at least with someone from the SDU on the
14:52:32 20 31st. Would that be reasonable?---It could be reasonable.
14:52:36 21 I've got no knowledge of it.
14:52:38 22
14:52:38 23 You've given evidence that you felt that you did have a
14:52:40 24 discussion with Mr O'Brien at least at some stage prior to
14:52:45 25 16 September, a few weeks I think you said before?---Yes.
14:52:52 26 I think I would have.
14:52:53 27
14:52:53 28 Right. Is it feasible then that you spoke to him on 31
14:52:59 29 August, that would be at least a couple of weeks before 16
14:53:05 30 September?---It's feasible but without my diary I can't
14:53:11 31 help you, but Jim O'Brien takes very good notes, he'll be
14:53:15 32 able to help you on this point.
14:53:17 33
14:53:17 34 All right then. As we have established, the first entry in
14:53:22 35 the source management log is on 7 September,
14:53:27 36 correct?---Yes.
14:53:27 37
14:53:28 38 At that stage obviously Ms Gobbo hadn't been registered and
14:53:32 39 indeed there wouldn't have been a source management log at
14:53:35 40 that point, correct?---Correct.
14:53:37 41
14:53:37 42 So one assumes that you put that entry into the source
14:53:41 43 management log from some other document that you had?---The
14:53:49 44 7th of September entry?
14:53:50 45
14:53:50 46 Yes?---I think in view of the fact I've got Cheesman's name
14:53:57 47 there and I think it's been established that Cheesman

14:54:00 1 wasn't involved, clearly I've made this entry post the
14:54:04 2 actual event.
14:54:04 3
14:54:05 4 Yes. And it may be that you made it from your recollection
14:54:09 5 which was incorrect?---Yes.
14:54:12 6
14:54:12 7 Or it may be that you took a note and recorded it somewhere
14:54:16 8 else but we simply don't know?---No, I can't help you
14:54:20 9 there.
14:54:20 10
14:54:21 11 All right then. Do you know when you would have started
14:54:26 12 the source management log?---No, but I'm sure the metadata
14:54:44 13 should help you there.
14:54:45 14
14:54:45 15 Right. Were you operating source management logs at that
14:54:50 16 stage in other files?---I can't recall, Mr Winneke, when I
14:55:01 17 introduced that system.
14:55:03 18
14:55:04 19 Right?---I don't know whether it was from the outset. I
14:55:08 20 think I'm pretty clear in my statement that it's not part
14:55:11 21 of policy, it was something that I created with my own
14:55:14 22 benefit. I just, I just can't recall when it went into
14:55:20 23 effect.
14:55:20 24
14:55:20 25 You don't know whether you used it in other files?---It was
14:55:25 26 definitely used in other files, it was definitely used for
14:55:29 27 all files at the SDU ultimately, but I just can't tell you
14:55:33 28 when I first came up with the idea.
14:55:35 29
14:55:36 30 You have a meeting on 8 September and that's recorded in
14:55:39 31 the source management log?---Yes.
14:55:42 32
14:55:43 33 You met with Detective Inspector Hill, he was at the
14:55:52 34 MDID?---Yes.
14:55:52 35
14:55:53 36 And you and Smith met with Hill, Mansell and Rowe, is that
14:56:00 37 right?---Yes.
14:56:02 38
14:56:02 39 And there was a discussion about Operation Quills,
14:56:07 40 **Mr Bickley** and Gobbo?---Are you saying - - -
14:56:25 41
14:56:34 42 Have you got the source management log in front of
14:56:36 43 you?---Yes.
14:56:36 44
14:56:37 45 Can you tell me who was present at the meeting on 8
14:56:41 46 September?---Detective Inspector Hill, Detective Inspector
14:56:53 47 White, Detective Sergeant Mansell and Detective Senior

14:56:59 1 Constable Rowe.
14:57:00 2
14:57:00 3 Yes. And who was Mr White? It obviously isn't you, it's
14:57:05 4 another - just excuse me. Who is Mr White?---That is
14:57:13 5 Adrian White, he was a Detective Inspector at the Drug
14:57:16 6 Squad, sorry, at the MDID at the time.
14:57:19 7
14:57:21 8 Adrian White?---Yes.
14:57:24 9
14:57:26 10 One assumes then that the discussion about the registration
14:57:29 11 of Ms Gobbo would have occurred with all of those
14:57:36 12 people?---Yes. I think at that particular time Adrian
14:57:47 13 White was Jim O'Brien's Inspector.
14:57:52 14
14:57:53 15 Yes?---And Bob Hill may have been upgraded as the Acting
14:57:57 16 Superintendent.
14:57:57 17
14:57:58 18 Right?---That would make sense.
14:58:01 19
14:58:01 20 No doubt these are reasonably senior police officers to
14:58:05 21 meet, have a meeting about the potential informer, I
14:58:08 22 suppose, would that be fair to say?---Yes.
14:58:11 23
14:58:12 24 And it wouldn't be every day that someone's registered that
14:58:17 25 you have, not as a regular basis, this level of seniority
14:58:22 26 of members of Victoria Police?---It happened but as I said
14:58:27 27 earlier she was very unique.
14:58:29 28
14:58:30 29 And the fact that these people were present represented the
14:58:35 30 uniqueness of the situation?---Yes.
14:58:37 31
14:58:39 32 Was Mr Smith, the member of the DSU, also there? Have a
14:58:49 33 look at your table there. What I suggest is that DI Hill's
14:58:55 34 diary suggests that Mr Smith in inverted commas was there,
14:59:02 35 not the Adrian Smith?---Sorry, obviously I can't recall.
14:59:07 36 As I said these, the source management log, at least these
14:59:13 37 parts of it, were not prepared contemporaneously, if it's
14:59:17 38 in Mr Hill's diary I think that would be more accurate.
14:59:20 39
14:59:21 40 What I'm suggesting is it may be you weren't actually at
14:59:24 41 that meeting?---Oh.
14:59:29 42
14:59:29 43 And that it was Mr Smith in inverted commas who was at the
14:59:34 44 meeting. Have a look at - - - ?---Okay.
14:59:39 45
14:59:40 46 Someone from the SDU was there, whoever filled it out, but
14:59:45 47 it may not be you?---That's a possibility. I think it

14:59:48 1 would be unlikely but it's a possibility. When you read
14:59:53 2 the whole source management log you can see it's written in
14:59:57 3 the, would you call it the first person? It's written
15:00:05 4 mostly by me.
15:00:06 5
15:00:06 6 It says, "Meet with Hill, White", not you, "Mansell and
15:00:12 7 Rowe", so it would seem that there was only one member of
15:00:18 8 the DSU there, but in any event what I can say is that DI
15:00:22 9 Hill's diary I'm told suggests that Mr Smith of the DSU was
15:00:29 10 there. In any event - - - ?---And not me.
15:00:34 11
15:00:35 12 We're going to double-check. In any event there is a
15:00:39 13 reference to a discussion about Operation Quills. Did you
15:00:42 14 know what that was?---I presume, seeing Mr Mansell and
15:00:46 15 Mr Rowe was there, it must have been to do with the
15:00:50 16 **Mr Bickley** job.
15:00:51 17
15:00:54 18 Okay. Now I'm told that in fact you were there so there
15:00:57 19 was - all right. There has been some confusion about
15:01:08 20 names, but you were there. There's a request for
15:01:13 21 assistance by Mr Hill. Now that document nominates
15:01:22 22 Mr O'Brien as a current controller and Mr Mansell as a
15:01:28 23 current handler and the application for assistance, or the
15:01:34 24 request for assistance is dated 7 September, albeit it
15:01:38 25 seems that there's a 16 September, at the bottom of the
15:01:43 26 document, suggesting that the document itself was created
15:01:47 27 later than 7 September. It's exhibit - would you be
15:01:56 28 assisted by having a look at that document, Exhibit 115?
15:02:01 29 Can we put that up just for the witness and the
15:02:05 30 Commissioner. Can you see that there?---Yes.
15:02:25 31
15:02:31 32 Is that a document, that's the form of the document that
15:02:34 33 you created, is that right?---Yes.
15:02:37 34
15:02:39 35 It sets out, and it seems that the document, the last date
15:02:43 36 on the document was the risk assessment completed and
15:02:47 37 that's 23 November 2005, is that right?---Yes.
15:02:51 38
15:02:53 39 The AOR was completed on 16 September 2005?---Yes.
15:03:00 40
15:03:01 41 And the source management file was created on 16 September
15:03:06 42 2005?---Yes.
15:03:08 43
15:03:09 44 And the management commences on that same day?---Yes.
15:03:12 45
15:03:13 46 Who created this document?---I probably created this
15:03:18 47 document and this, this was not done at the time of her

15:03:24 1 registration. These documents were created some time later
15:03:30 2 where I had to come up with some way of trying to quantify
15:03:38 3 the work for the SDU and record the process and I know I
15:03:47 4 had a meeting with Superintendent Biggin at some time and
15:03:50 5 we spoke about how to best do this.
15:03:53 6
15:03:53 7 Yes?---So we came up with this form and what I had to then
15:03:57 8 do was go back and back catch up the job that we'd been
15:04:03 9 involved in. Now this was one created by myself. It was
15:04:10 10 not a form - it shows Mr Hill as being the officer
15:04:15 11 requesting the assistance, but he didn't prepare this form
15:04:20 12 until, I suspect he's probably never even seen it, because
15:04:23 13 it was kept in-house at the SDU.
15:04:25 14
15:04:26 15 The metadata on the document that we've got,
15:04:28 16 VPL.2000.0002.0712, suggests it was created in 2013. I
15:04:40 17 suggest that's not the case, is it?---No, that couldn't be
15:04:43 18 right. That must have been when Operation Loricated
15:04:50 19 started collecting documents.
15:04:52 20
15:04:52 21 Regardless of that, I take it that the actual format of the
15:04:57 22 document, the content of the document, the look of the
15:05:00 23 document was the same as the one that you've
15:05:04 24 created?---Yes.
15:05:04 25
15:05:07 26 What we do know is that Mr Biggin carried out an audit on
15:05:14 27 this file at some stage into the New Year, into 2006, is
15:05:17 28 that right?---Yeah, I think that is right.
15:05:23 29
15:05:24 30 Do you think it might have been then that it was felt
15:05:29 31 appropriate that there should be some sort of record of the
15:05:32 32 way in which the relationship commenced between Gobbo and
15:05:36 33 the SDU?---No. No, I don't. The conversation - from my
15:05:46 34 recollection the conversation with Superintendent Biggin
15:05:49 35 was more around how do we capture the workload of the SDU.
15:05:56 36 It wasn't, it wasn't - well I don't believe it arose out of
15:06:01 37 any audit that he did, and there will be a reference in my
15:06:04 38 diaries to having this conversation with Mr Biggin.
15:06:07 39
15:06:07 40 Right?---Because we discussed issues around, well, should
15:06:11 41 we get the requesting members to compile the form or should
15:06:15 42 it be kept in-house? We were worried about information
15:06:19 43 about human source operations being, lying around in police
15:06:23 44 stations all over Victoria, so I recall the conversation.
15:06:26 45 I don't recall anything to do with an audit.
15:06:29 46
15:06:29 47 Yes. Can I ask you why the current handler and the current

15:06:33 1 controller would have been described as "is set out in the
15:06:38 2 form"?---I think that shows the limitation of the form. It
15:06:43 3 was designed around what most of the jobs were in the early
15:06:47 4 days at least when we had a number of investigators around
15:06:54 5 the State referring sources that they had, that they had
15:07:00 6 decided could be high risk, but bear in mind the Source
15:07:06 7 Development Unit only came into existence to manage
15:07:10 8 designated high risk sources.
15:07:12 9
15:07:12 10 Yes?---So the form's created around that thought which
15:07:16 11 basically presumes that there is already an established
15:07:20 12 Victoria Police informer relationship underway.
15:07:23 13
15:07:24 14 Right. And that's why it's described as it is with Mansell
15:07:28 15 being the handler, O'Brien being the controller?---Yes. In
15:07:32 16 the normal course of events it would have been a previously
15:07:35 17 registered source but she was not registered by either of
15:07:38 18 those people.
15:07:38 19
15:07:38 20 All right. That being the case then, the nature of
15:07:48 21 assistance required would be recruitment rather than
15:07:50 22 management, wouldn't it?---It would.
15:07:52 23
15:07:52 24 And so why was management ticked and not recruitment?---I
15:07:58 25 can't tell you now.
15:07:59 26
15:08:00 27 Right. I mean that appears to be in effect inaccurate,
15:08:05 28 doesn't it?---To be honest if it was accurate it probably
15:08:14 29 should have been ticked "assessment".
15:08:16 30
15:08:16 31 I mean what it does it presents the situation as Ms Gobbo
15:08:21 32 already being a registered informer, currently being
15:08:25 33 handled by Mansell, currently being controlled by O'Brien,
15:08:28 34 already been recruited but seeking the services of the DSU
15:08:32 35 for management. From what you say that's entirely
15:08:36 36 inaccurate?---That is inaccurate, yes.
15:08:38 37
15:08:38 38 Why would you create a document like that?---Perhaps if you
15:08:41 39 just go back a step. This is 2005.
15:08:44 40
15:08:44 41 Yes?---This is very early days of the Source Development
15:08:49 42 Unit. We were creating forms on the run, policy on the
15:08:54 43 run, training on the run at the same time as managing
15:08:59 44 sources. Clearly the form is wrong. I'm telling you right
15:09:01 45 now that the form is incorrect.
15:09:02 46
15:09:03 47 But you knew at the time that you created the form what the

15:09:05 1 situation was, didn't you?---I've already told you that.
15:09:09 2
15:09:09 3 The answer is yes, is it?---Yes.
15:09:11 4
15:09:12 5 Why create a deceptive form?---I've already explained that.
15:09:16 6 It was early days, we were trying to do a lot of things,
15:09:19 7 this information was a back catcher, obviously ticking the
15:09:24 8 box "management" is wrong. The people involved in the
15:09:27 9 relationship, the source, I mean I can redesign this form
15:09:31 10 right now and make it a lot more accurate.
15:09:32 11
15:09:33 12 It is not a question of designing, it is a question of
15:09:36 13 presenting accurate information, and this is an example of
15:09:38 14 inaccurate information, wrong information knowingly being
15:09:41 15 prepared by you. Do you accept that?---I accept that the
15:09:44 16 form is wrong on the face of it, yes.
15:09:46 17
15:09:46 18 And deceptive?---It's not deceptive and it was never
15:09:51 19 intended to be deceptive.
15:09:52 20
15:09:53 21 Why do you need to say she was currently being handled and
15:09:57 22 currently being controlled when you say that's not in fact
15:09:59 23 the case?---The people involved in asking for our
15:10:03 24 assistance and nominated on that form in the order of their
15:10:08 25 rank - - -
15:10:10 26
15:10:10 27 Why don't you simply say these people are asking - -
15:10:13 28 -?---You can say, Mr Winneke, that it's an incompetent form
15:10:17 29 and I won't disagree. But there's no deception about it
15:10:24 30 and I think to suggest it's intentionally deceptive is
15:10:26 31 insulting.
15:10:27 32
15:10:27 33 That's what you think, is it?---It is what I think because
15:10:30 34 it's not deceptive. It's obviously a mistake. I'd go so
15:10:34 35 far as to say maybe it's incompetent.
15:10:36 36
15:10:37 37 All right. Is there anything that's correct on it? Let me
15:10:40 38 see. "Source capable of providing quality intelligence
15:10:45 39 regarding the Mokbel cartel", that's correct, isn't
15:10:48 40 it?---Yes.
15:10:48 41
15:10:50 42 The SDU assessment was by Mr Smith, that's correct?---Yes.
15:10:58 43
15:11:01 44 And did you assess her as well?---Sorry, I can't actually
15:11:12 45 see the name on there, but yes, I was present for the
15:11:14 46 assessment.
15:11:15 47

15:11:16 1 So it's inaccurate I suppose in that regard, would you
15:11:19 2 agree with that?---Well I can't see the name - there we go.
15:11:23 3 I can see the name now and it shows the primary handler's
15:11:27 4 name, which is what we did.
15:11:29 5
15:11:34 6 "The source is strategically or tactically viable, high
15:11:41 7 risk, high value", right?---Yes.
15:11:44 8
15:11:47 9 The recommended action is SDU management, yes?---Yes.
15:11:52 10
15:11:52 11 Dee activation, no. Right?---Yes.
15:11:58 12
15:12:00 13 And registration by local management, no?---That's correct.
15:12:06 14
15:12:09 15 If we go over the page, the designated handler is Mr Smith.
15:12:17 16 The designated controller is you, Mr White, correct?---Yes.
15:12:22 17
15:12:22 18 The source management file was created on 16 September,
15:12:30 19 which is correct, is it?---Yes.
15:12:32 20
15:12:33 21 The Acknowledgement of Responsibilities was completed on
15:12:37 22 16th of the 9th 2005. That's incorrect, isn't it?---That's
15:12:41 23 incorrect.
15:12:42 24
15:12:43 25 And that's deceptive, isn't it?---No, I don't think it's
15:12:49 26 deceptive, I just think it's a mistake.
15:12:52 27
15:12:52 28 Okay, we'll go through - when you say it's a mistake,
15:12:57 29 what's the mistake? You mistakenly believed that on 16
15:13:01 30 September there was an AOR?---Yes.
15:13:08 31
15:13:09 32 All right. When in fact was the AOR completed?---The AOR -
15:13:23 33 so the answer to that question is going to be a little bit
15:13:27 34 long winded. The Acknowledgement of Responsibilities was
15:13:36 35 able to be or capable to be delivered in two ways. We
15:13:40 36 discussed this yesterday.
15:13:42 37
15:13:42 38 Yes, we did to some extent. You say that it could be done
15:13:46 39 orally or it could be done in writing?---That's right. So
15:13:54 40 I just don't want to repeat myself.
15:13:55 41
15:13:56 42 No, no?---It wasn't done in writing, it was done orally.
15:14:01 43
15:14:02 44 Yes?---And even the cursory examination that I've had of
15:14:07 45 some of the meetings shows that content was covered
15:14:12 46 verbally and recorded.
15:14:13 47

15:14:13 1 Yes?---That's the, that is the AOR, that's what happened in
15:14:23 2 her case.
15:14:23 3
15:14:26 4 You understand that the standard operating procedure
15:14:29 5 suggested or said that the Acknowledgement of
15:14:35 6 Responsibility had to be signed?---No, it didn't have to be
15:14:42 7 signed.
15:14:42 8
15:14:43 9 Right. You say that's not correct?---Yes.
15:14:46 10
15:14:47 11 All right. In any event, what you say is that whenever
15:14:59 12 this document was created, it was either assumed that the
15:15:07 13 AOR was completed on the 16th or there was a guess or
15:15:14 14 something along those lines, not all together certain
15:15:17 15 because you can't recall when that document was
15:15:20 16 created?---That's right. This is clearly a back catch up.
15:15:24 17
15:15:25 18 Yes. Can I just ask you, the Dedicated Source Handling
15:16:04 19 Team Project Final Report of May 2004 contained information
15:16:09 20 with respect to the Acknowledgement of Responsibilities,
15:16:13 21 right?---Sorry, you're looking at the Dedicated Source
15:16:19 22 Handling Team's paper?
15:16:21 23
15:16:21 24 Yes?---So this is the one we saw yesterday prepared by
15:16:24 25 Mr Owen?
15:16:25 26
15:16:25 27 Yes?---I'm not familiar with the content of that without
15:16:33 28 viewing it.
15:16:37 29
15:16:39 30 VPL.0005.0027.0001 at p.6. If you go to p.26. If we go to
15:17:17 31 the recommendations of that panel and the final report it
15:17:24 32 was recommended that, "Where an informer is to be
15:17:26 33 registered the terms and conditions surrounding the
15:17:28 34 relationship must be explained either as they are outlined
15:17:33 35 or in language that conveys the intentions of the
15:17:37 36 document". Do you see that?---Yes.
15:17:39 37
15:17:40 38 "Completion of the document is affected by [REDACTED].
15:17:44 39 A. Obtaining the informer's signature in the area provided
15:17:48 40 [REDACTED] and signing the lower
15:17:51 41 portion of the form noting that such action has been
15:17:54 42 undertaken"?---Sorry, it's only just come up on the screen.
15:17:59 43
15:17:59 44 I'm sorry?---It's gone again.
15:18:02 45
15:18:04 46 The last portion of it, do you see that?
15:18:10 47

15:18:11 1 MR CHETTLE: What is this document, Mr Winneke?
15:18:26 2
15:18:33 3 MR WINNEKE: What you can't see and what's been taken out -
15:18:46 4 - -
15:18:46 5
15:18:47 6 MR CHETTLE: Commissioner, I notice - - -
15:18:49 7
15:18:49 8 COMMISSIONER: Mr Chettle has asked what the document is.
15:18:51 9 Could you tell him please, Mr Winneke.
15:19:00 10
15:19:00 11 MR WINNEKE: It's the Dedicated Source Handling Team's
15:19:04 12 Project Final Report of May 2004. The recommendation of
15:19:08 13 that report contained the recommendations insofar as the
15:19:15 14 Acknowledgement of Responsibilities form is concerned. You
15:19:30 15 can see that there?---Well I can see but I can see there's
15:19:38 16 areas that are redacted for PII reasons. I'm only guessing
15:19:43 17 what they probably say, which should be consistent with my
15:19:45 18 view about what we were allowed to do in relation to the
15:19:49 19 AOR.
15:19:51 20
15:19:51 21 Yes?---And I understand it's PIIed for good reason. I'm
15:19:56 22 not in a position to take that any further.
15:19:57 23
15:19:57 24 Look I've already read it out and there's been no
15:20:01 25 objection, Roman numeral - - -
15:20:05 26
15:20:05 27 MR HOLT: Sorry, it's not a document that this witness has.
15:20:07 28 It's not a document we were given notice about being - - -
15:20:09 29
15:20:10 30 COMMISSIONER: The witness does have it on the screen.
15:20:12 31
15:20:13 32 MR HOLT: I'm sorry, the witness was involved in, he gave
15:20:15 33 evidence to that effect yesterday. This is somebody else's
15:20:21 34 document.
35
36 COMMISSIONER: Yes.
37
15:20:21 38 MR HOLT: I'm sorry, but where a public interest immunity
15:20:22 39 claim has been made and where there has been no adverse
15:20:25 40 response from the Commission, and the Commissioner knows
15:20:29 41 it's not perfect but we've been working hard to get those
15:20:31 42 claims right. It actually isn't, with respect to our
15:20:34 43 learned friend, okay to simply read stuff out of a document
15:20:37 44 and then say there's no objection. It's just an imprecise
15:20:40 45 and immediate process. If something is subject to a PII
15:20:44 46 claim in the document, our learned friend with respect
15:20:46 47 should raise it with us.

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COMMISSIONER: Yes.

MR HOLT: I can't stay across literally hundreds of thousands of documents in order to determine claims in a split-second in the course of a hearing, and we are at real risk of genuine police methodology issues being published, and I know much of the issues arise from my documentation, I accept that, Commissioner, but that doesn't detract from our responsibility to make sure that these claims are properly prosecuted where they need to be made. Our learned friend shouldn't simply be reading out things that are subject to a PII claim that has either been resolved by the Commissioner or hasn't yet been resolved, without notice to us. It just can't happen, we need to take a little more time over it.

MR WINNEKE: Commissioner, can I say this, I have a document which doesn't have any PII on it. The document was referred to yesterday. I wasn't aware that it had been PIIed. Prior to it coming up on the screen I read it out, but in any event there we are.

MR HOLT: "But in any event there we are" is not a response, with respect. It's a common response but it's not a proper response. I know there are real difficulties with this, that's why care needs to be taken even if requires short delays or conversations in advance. We're more than happy to have them.

COMMISSIONER: Mr Holt, you're making it plain that you are claiming PII in respect of what was read out.

MR HOLT: I believe so, Commissioner, I don't mean to be obtuse about it, but these are documents which go through a lengthy process with your staff, with those assisting you in advance, and in the absence of them being resolved - - -

COMMISSIONER: I don't know whether this document has gone through that process.

MR HOLT: I don't know either, Commissioner, because we weren't given notice it was to be referred to today or yesterday. I simply don't know the answer to that question. But I can't on my feet simply say yes or no.

COMMISSIONER: I understand, Mr Holt.

15:22:21 1
15:22:21 2 MR HOLT: I can do so, I can do so overnight. I can do so
15:22:25 3 probably on a ten minute break given the personnel in the
15:22:27 4 court.
15:22:28 5
15:22:28 6 COMMISSIONER: Mr Winneke, is there some other matter you
15:22:31 7 can go on with and we can return to this tomorrow after
15:22:36 8 Mr Holt's had an opportunity to consider whether they're
15:22:40 9 maintaining the PII claim?
15:22:41 10
15:22:41 11 MR WINNEKE: Commissioner, I think we ought to because I'd
15:22:47 12 certainly be saying there oughtn't be a PII claim made with
15:22:47 13 respect to those paragraphs.
15:22:50 14
15:22:50 15 MR CHETTLE: Commissioner, can I make a different objection
15:22:50 16 which it might be relevant. It's a relevance objection.
15:22:52 17 This is a document written by someone else that my client
15:22:56 18 doesn't adopt.
15:22:56 19
15:22:56 20 COMMISSIONER: It is a document that has been prepared
15:22:59 21 before and in the process leading up to the establishment
15:23:03 22 of the SDU so it seems to me it is relevant.
15:23:06 23
15:23:06 24 MR CHETTLE: But can I finish my submission with respect,
15:23:06 25 Commissioner?
15:23:06 26
15:23:06 27 COMMISSIONER: Of course.
15:23:06 28
15:23:07 29 MR CHETTLE: The very answer to the question, the SOPs that
15:23:13 30 Mr Winneke - the Standard Operating Procedures that
15:23:13 31 regulate these things are produced to the Commission and
15:23:16 32 that's what applied at the time. And Mr Sandy White has
15:23:22 33 already referred to the fact that the requirement to have
15:23:25 34 this signed is not right. He has given that evidence and
15:23:28 35 if you look at the SOPs that bears it out. So why are we
15:23:32 36 asking about a document that didn't apply to him and
15:23:35 37 Mr Winneke can ascertain that with a simple question,
15:23:40 38 whether this had any effect on the SDU, when there are
15:23:43 39 other documents which will go to the very issue he is
15:23:46 40 interested in.
15:23:47 41
15:23:47 42 COMMISSIONER: Are you finished, Mr Chettle?
15:23:50 43
15:23:50 44 MR CHETTLE: Thank you.
15:23:50 45
15:23:51 46 COMMISSIONER: Yes, all right. I consider it is relevant.
15:23:53 47 Mr Winneke, it seems as though you probably should return

15:23:57 1 to this tomorrow and allow Mr Holt to see whether he's
15:24:03 2 pressing the PII claim which on the document that's come up
15:24:07 3 before me, it seems to be a PII claim and it doesn't seem
15:24:11 4 to have been discussed or resolved. I don't know whether
15:24:14 5 there's anything in it or not, but Mr Holt wants to
15:24:18 6 preserve his position and he can't do that if it's referred
15:24:22 7 to now.
15:24:23 8
15:24:23 9 MR WINNEKE: No, I understand that, Commissioner. So we
15:24:26 10 could either have the argument now or we can move on. I'm
15:24:29 11 content to move on.
15:24:30 12
15:24:31 13 COMMISSIONER: And if needs be come back to it tomorrow
15:24:33 14 after Mr Holt has had an opportunity to consider his
15:24:36 15 position. So if you've got something else you can move to
15:24:40 16 that would be good.
17
15:24:45 18 MR WINNEKE: All right. Perhaps if that document could be
15:24:51 19 taken down. It appears, now I don't know whether you're
15:25:16 20 aware of this or not, on 12 September 2005 there was a
15:25:20 21 meeting between Mr O'Brien and Mr Overland and there was a
15:25:23 22 discussion about Ms Gobbo and opportunities with respect to
15:25:30 23 Operation Quills and it was at that point the MDID under
15:25:35 24 Mr O'Brien was moved to Purana, were you aware of that?---I
15:25:38 25 know Mr O'Brien spoke to Assistant Commissioner Overland a
15:25:42 26 number of times before this, the investigation, was it
15:25:50 27 Quills I think you said - no.
15:25:52 28
15:25:52 29 Yes. You understood that he and Mr Overland, Mr O'Brien
15:25:58 30 and Mr Overland had discussed the opportunities with
15:26:02 31 respect to Quills by engaging Ms Gobbo as an informer, a
15:26:09 32 human source?---I'm sorry, I think it was Posse.
15:26:14 33
15:26:15 34 Posse and Quills I suggest?---Okay, well I think Quills was
15:26:23 35 **Mr Bickley** and that was completed, but in any event
15:26:28 36 these questions are best directed at Mr O'Brien. I am
15:26:32 37 aware that he met with the Assistant Commissioner. I think
15:26:36 38 it took some time for Mr O'Brien to move to Purana, it
15:26:40 39 wasn't immediate. It took some time to set up that Task
15:26:44 40 Force and the various processes required.
15:26:46 41
15:26:48 42 You understand that Mr Overland and Mr O'Brien were keen to
15:26:54 43 develop the investigation in Quills to include charging
15:26:59 44 Mr Mokbel?---Yes, Mr Mokbel. Well there's three or four
15:27:07 45 Mr Mokbels, they were all part of that particular
15:27:12 46 operation.
15:27:12 47

15:27:13 1 Antonios Mokbel?---Yes.
15:27:16 2
15:27:16 3 He was certainly a target of Operation Quills, as he was a
15:27:20 4 target of Operation Posse?---I can't tell you about Quills
15:27:24 5 but Posse, yes.
15:27:24 6
15:27:25 7 How did you come to be aware that Mr Overland was speaking
15:27:28 8 to Mr O'Brien about that?---I know from my memory, and also
15:27:35 9 having a look at some of the records I've been given access
15:27:38 10 to, that Mr O'Brien spoke to Mr Overland to, I think he
15:27:44 11 needed Mr Overland to authorise that particular
15:27:49 12 investigation and his move to the Purana Task Force. I
15:27:52 13 don't really understand, you know, how that actually
15:27:56 14 occurred, but I know that there were discussions with
15:27:59 15 Mr Overland about it.
15:28:00 16
15:28:02 17 The reason you are aware of that is because you understand
15:28:05 18 that the SDU was going to be a significant plank in those
15:28:17 19 investigations?---Yes.
15:28:18 20
15:28:19 21 16 September 2005 was the date of the first meeting between
15:28:22 22 you and Ms Gobbo, correct?---Yes.
15:28:24 23
15:28:25 24 And you and Mr Smith met with Ms Gobbo?---Yes.
15:28:32 25
15:28:34 26 And it was your intention, in effect, to see what Ms Gobbo
15:28:40 27 had to offer?---That's right.
15:28:45 28
15:28:46 29 And if at all possible to have her registered as a human
15:28:55 30 source?---Yeah, if possible, that's right. It was an
15:29:01 31 assessment. It was part of an assessment process as to
15:29:05 32 whether it was a viable way to proceed.
15:29:09 33
15:29:09 34 Right. Did you create a sort of a plan about how you were
15:29:16 35 going to achieve it, questioning plan or anything like
15:29:23 36 that?---No, this was just an assessment meeting and it went
15:29:28 37 on. There were several assessment meetings, we were trying
15:29:31 38 to work out who she knew, what her level of access was, it
15:29:36 39 was basically to try and get as much information as we
15:29:41 40 could from her. At that stage it's not a plan, it's just
15:29:44 41 an assessment.
15:29:45 42
15:29:46 43 What you did understand was she felt she was conflicted
15:29:49 44 with Mr Mokbel and Mr Bickley. She felt that, or you
15:29:54 45 understood that she could provide significant information
15:29:57 46 in relation to Mr Mokbel and of the Mokbel cartel, we've
15:30:04 47 established that?---You asked me two questions. The first

15:30:07 1 one, yes, I think she spoke about the issue of conflict of
15:30:12 2 interest regarding **Mr Bickley** and I think specifically it
15:30:16 3 was Tony Mokbel.
15:30:17 4
15:30:17 5 Yes?---And the second question was about the Mokbel cartel.
15:30:23 6 Yes, she could provide, potentially provide assistance in
15:30:26 7 relation to the Mokbel cartel which was the Mokbel brothers
15:30:29 8 and all their underlings.
15:30:31 9
15:30:31 10 And significant information about those people?---Yeah.
15:30:39 11
15:30:44 12 If we can go to - I'm going to go through a transcript,
15:30:51 13 VPL.0005.0051.0002. If we could have that document put up
15:31:06 14 on the screen. Commissioner, it's got names which haven't
15:31:09 15 been redacted on it, so it may well be - - -
15:31:14 16
15:31:14 17 COMMISSIONER: Perhaps it better just come up on my screen
15:31:18 18 then if that's possible. At the moment it's only on my
15:31:45 19 screen and the witness's screen.
15:31:46 20
15:31:46 21 MR WINNEKE: That's satisfactory, Commissioner. There are
15:31:51 22 a number of transcripts.
15:31:58 23
15:31:58 24 COMMISSIONER: Do you want the VPL number, Mr Chettle?
15:32:00 25
15:32:01 26 MR CHETTLE: Our VPL number ends in 0014.
15:32:06 27
15:32:06 28 COMMISSIONER: The one that has come up on the screen ends
15:32:10 29 in 0012.
15:32:12 30
15:32:15 31 MR CHETTLE: I don't know why, ours is VPL.0005.0037.0014.
15:32:15 32 I don't understand this, that's the way we got it.
15:32:19 33
15:32:19 34 COMMISSIONER: Anyway you've got the document.
15:32:21 35
15:32:21 36 MR CHETTLE: I've got it, that's why I asked Mr Winneke for
15:32:24 37 page numbers when he goes to it.
15:32:26 38
15:32:26 39 MR WINNEKE: You had with you, I take it, on this day a
40 recorder, an obvious recorder, recording device?---Before
41 we proceed with this transcript can I just be excused for
42 one second to get my glasses?
43
44 COMMISSIONER: Yes, certainly, Mr White?---Thank you,
45 Commissioner.
46
15:33:05 47 MR WINNEKE: In fact we can assist you initially because we

15:33:07 1 can play something to you. If we might play a short clip.
15:33:13 2 Are you there, Mr White?
3
15:33:15 4 COMMISSIONER: Yes, he's there.
15:33:17 5
15:33:17 6 WITNESS: Yes.
7
8 (Audio recording played to court.)
9
15:34:00 10 MR WINNEKE: You heard, and you saw the transcript?---Yes.
11
15:34:05 12 You accept that that's your voice and Ms Gobbo's
15:34:10 13 voice?---Yes.
14
15:34:11 15 Page 5. Quite apparently Ms Gobbo wanted to know whether
15:34:18 16 she was being recorded, correct?---Yes.
17
15:34:21 18 And you said, "No, it's not but I'm about to start a
15:34:26 19 recording", correct?---Yes, yes.
20
15:34:28 21 Quite obviously you were telling her a lie?---Yes.
22
15:34:33 23 Right. Why were you telling her the lie?-- [REDACTED]
15:34:40 24 [REDACTED]
15:34:45 25
15:34:45 26 MR HOLT: Commissioner, can we just pause, please. That's
15:34:50 27 a matter over which a claim has been made and I ask that it
15:34:53 28 be taken from the record and I ask that there be a
15:34:56 29 suppression order, a non-publication order in respect of
15:34:59 30 that answer.
31
15:35:00 32 COMMISSIONER: I'm not going to take it from the record,
15:35:02 33 but I'll make a non-publication order in respect of it.
15:35:06 34
15:35:06 35 MR HOLT: Thank you. And given that we're on a topic of
15:35:09 36 this kind I'd be very grateful if our learned friend could
15:35:11 37 try and ensure that issues which I think in this context
15:35:13 38 accepted as being, at least for present purposes, subject
15:35:15 39 to that be observed carefully.
40
15:35:17 41 COMMISSIONER: Yes, yes. Obviously they're highly relevant
15:35:20 42 to the work of the Commission so that's why I think it
15:35:24 43 should be not taken from the record but it won't be
15:35:26 44 published. Yes, you'll keep that in mind, Mr Winneke, in
15:35:34 45 your questioning.
46
15:35:35 47 MR WINNEKE: Yes, Commissioner. Yes. You didn't want her

15:35:43 1 to know that you were recording her, correct?---Very hard
15:35:50 2 to answer this question now in view of the fact that it's
15:35:57 3 difficult to talk about process.
4

15:36:00 5 You say there's a process but you say it's because of the
15:36:02 6 process, not because you wanted to deceive her?---I will
15:36:13 7 need to confer with counsel in relation to what I can say
15:36:16 8 about this.
9

15:36:18 10 COMMISSIONER: If you just answer the questions your
15:36:20 11 counsel will make any objection that he or she thinks - he
15:36:23 12 thinks is necessary and Victoria Police counsel also is
15:36:32 13 here to protect Victoria Police's interests. Unless
15:36:34 14 there's an interruption you can just answer the question,
15:36:40 15 Mr White. But there is an interruption. Mr Holt.
16

15:36:42 16
15:36:43 17 MR HOLT: I well understand why this question requires
15:36:45 18 answering, but in our respectful submission it ought happen
15:36:49 19 in a hearing which only has State parties and no media
20 present because it deals with a question of methodology
21 which is important to the Commission's work but is a matter
15:36:57 22 that ought be protected by - is protected by public
15:36:58 23 interest immunity, and the balance of that in our
15:37:00 24 respectful submission is to allow it to be explored but in
15:37:02 25 a way that ensures that it's not published or known beyond
15:37:05 26 State agencies who are obliged to protect it.
27

15:37:09 28 COMMISSIONER: All right, thank you. I'm satisfied that
15:37:12 29 sufficient protection is given by the non-publication order
15:37:15 30 that I've just made and will continue to be made in respect
15:37:21 31 of information of this kind. So there is a non-publication
15:37:24 32 order. I order that there be no publication of any matters
15:37:27 33 concerning police methodology about [REDACTED]
15:37:37 34 [REDACTED]

15:37:42 35 [REDACTED] It's a very broad non-publication order.
15:37:47 36

15:37:47 37 MR HOLT: I understand, Commissioner, but I respectfully
15:37:48 38 seek the opportunity to take instructions on that issue.
15:37:50 39 If I might have five minutes to determine the course that
15:37:53 40 we'll take?
15:37:53 41

15:37:53 42 COMMISSIONER: Yes, all right then.
43

44 (Short adjournment.)
45

15:53:37 46 COMMISSIONER: Mr Holt.
15:53:38 47

15:53:38 1 MR HOLT: Commissioner, I understand from discussions with
15:53:40 2 our learned friend Mr Winneke that it may well be that the
15:53:42 3 issue will no longer arise. And if that's the case then I
15:53:44 4 need make no further submissions but I'm in a position to
15:53:45 5 indicate our position if that changes.
6
15:53:47 7 COMMISSIONER: Thanks Mr Holt. Yes, Mr Winneke.
8
15:53:49 9 MR WINNEKE: Thanks, Commissioner.
15:53:50 10
15:53:50 11 Mr White, do you have a copy of the transcript in
15:53:53 12 front of you?---No, I don't.
13
15:54:14 14 You don't, all right?---Sorry, I'll just check. There's a
15:54:20 15 lot of material here, I'm just checking.
16
15:54:22 17 See if you can find it. If we can do it without - I'm
15:54:26 18 content to put it up on the screen so the Commissioner can
15:54:28 19 see it. Perhaps we'll put it up on the screen just so as
15:54:35 20 the Commissioner and you can see it and that'll do.
21
15:54:41 22 COMMISSIONER: This is the document we were looking at
15:54:43 23 before the break, is that right?
24
15:54:46 25 MR WINNEKE: Yes.
26
15:54:47 27 COMMISSIONER: Yes. The transcript of the audio, yes.
28
15:54:50 29 MR WINNEKE: All right. Quite obviously Ms Gobbo was
15:54:57 30 concerned about there being a record of a conversation that
15:55:01 31 she was having with you?---Yes.
32
15:55:07 33 And she expressed that to you?---Yes.
34
15:55:10 35 And if we go to p.6. She says, "All it takes is for
15:55:15 36 someone to issue some sort of a subpoena and it can be
15:55:18 37 obtained", right? And you say, "That's true to a certain
15:55:23 38 extent" and then she says, "Leave aside" - - -
15:55:32 39 ?---Mr Winneke, I haven't got the document in front of me.
40
15:55:37 41 I apologise.
42
15:55:38 43 COMMISSIONER: Sorry, it should be there now.
44
15:55:40 45 MR WINNEKE: Do you have it there now?---Yes, thank you.
15:55:42 46 Is it p.7?
15:55:43 47

15:55:46 1 Page 6. Seven at the top but 6 at the bottom. Let's go on
15:55:50 2 the numbers at the bottom of the page?---Okay.
3
15:55:52 4 She says, "Leave aside whether you're going to play it to
15:55:56 5 other people or other people hear it, that sort of thing".
15:56:00 6 You say further down, "All I can say to you is that it
15:56:09 7 would be 100 per cent secure and it won't be anywhere
15:56:12 8 connected with where Steve" and we can't work out what is
15:56:18 9 said there, it could be Steve, Mansell and Rowe, "But is it
15:56:29 10 subject to subpoena? Yeah, it's subject to subpoena, if
15:56:32 11 people know it exists that's the first thing. You know it
15:56:36 12 exists". She says, "Well I'm not going to tell anyone".
15:56:39 13 You say, "Well I'm counting on that". You then say, "And
15:56:44 14 the second thing is it's a very privileged conversation.
15:56:47 15 Now I know there can be arguments that can overcome that".
15:56:50 16 She says, "But you don't understand, the first thing anyone
15:56:54 17 will claim, I mean the way it works is I issue a subpoena
15:56:57 18 for something and police claim public interest immunity and
15:57:04 19 that's the answer to the question from the crook's point of
15:57:06 20 view. Once public interest immunity is claimed then that's
15:57:10 21 the answer", right?---Yes.
22
15:57:16 23 You understand what she was saying, you understood that you
15:57:22 24 can make a claim for PII but ultimately it's up to the
15:57:25 25 court to determine?---That's right.
26
15:57:32 27 Then you say, "Well, you've got to ask the question, who's
15:57:36 28 going to subpoena it? I suppose, we'll actually get to
15:57:39 29 that or we're going to have to have an argument about it".
15:57:42 30 She says again, "Well I'm not going to say". Again, she's
15:57:53 31 talking about down the track if there's an argument about
15:57:56 32 it, "We're not going to debate the issue with a barrister",
15:58:01 33 you say. "I'm not trying to be a smart-arse, I understand
15:58:05 34 that". But that's her principal concern, that there be a
15:58:10 35 record of a communication between her and Victoria Police.
15:58:13 36 She says, "I don't care how many notes you take but I'd
15:58:17 37 rather notes be notes. If there's no tape recording at
15:58:21 38 least no one can get it somehow". All right. Can we just
15:58:25 39 play a recording of the next part.
15:58:29 40
15:58:55 41 (Audio recording played to court.)
15:58:55 42
15:58:56 43 She's made it clear to you that she would be inhibited
15:59:01 44 by what she would say if you ran a tape recorder and you
15:59:06 45 say, "Well, look that kind of defeats the purpose of having
15:59:09 46 a meeting with you" and she says, "Okay" and you say, "Well
15:59:14 47 we can make an assessment of whether you've got something

15:59:16 1 valuable to offer" and you say, "Are you going to be
15:59:21 2 satisfied if I say to you that firstly the tape is secure
15:59:25 3 in a place that can't be got, and secondly, the only people
15:59:28 4 that know it exists will be yourself and us, does that
15:59:33 5 satisfy you?" She says, "Yeah". And you say, "We're not
15:59:38 6 going to subpoena them because we possess it and I don't
15:59:40 7 imagine you're going to subpoena them because I can't see
15:59:41 8 the value of that". But the reality is what you would
15:59:43 9 understand is that if she is acting for a person at the
15:59:50 10 same time as providing information to you and there is a
15:59:53 11 conflict, there would be a significant risk, would there
15:59:56 12 not, of someone seeking to subpoena information about her
16:00:01 13 dealings with you and you having to disgorge that
16:00:06 14 information?---I'm sorry, you'll have to repeat that
16:00:12 15 question.
16 16
16:00:12 17 Right. Let's just say you receive information from her
16:00:18 18 about a client for whom she's acting, do you accept
16:00:22 19 that?---Yes, yes.
20 20
16:00:23 21 That would put her in a conflict situation, do you accept
16:00:26 22 that?---Yes, she's given information about a client that
16:00:33 23 she then represents, yes.
24 24
16:00:36 25 Or that she's acting for or acts for in the future, do you
16:00:40 26 agree with that?---Sorry, a client that she - so the
16:00:53 27 original proposition was she provides information about a
16:00:56 28 person who's a client.
29 29
16:00:57 30 Yes?---And then goes on to represent them.
31 31
16:01:01 32 Yes?---We've already had this discussion and I've agreed
16:01:05 33 with your proposition.
34 34
16:01:07 35 Yes?---Now are you saying that the same would apply if it
16:01:11 36 was a person that was to be a client in the future? Is
37 that how I understand - - -
38 38
16:01:17 39 Let's stick with the proposition that at the moment she's
16:01:20 40 acting for the Mokbels, right?---Yes.
41 41
16:01:23 42 And you're seeking to get information from her about the
16:01:26 43 Mokbels with a view to dealing with them, having them
16:01:30 44 charged?---Yes.
45 45
16:01:32 46 That would clearly put her in a conflict situation, would
16:01:35 47 it not?---If she goes on to represent them, yes.

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Yes. And you know that she's already representing them at that stage?---Well a conflict, as I said earlier, the conflict issue is hers. That's not mine.

It may well be hers but if she does act for these people at the same time as providing information to you, it then becomes your problem because you may well be hit with a subpoena to produce information, correct?---No, I'm not following your - I'm not following your argument.

Well it's a - - - ?---Certainly - as I said to you previously, my thoughts in relation to her on this issue were pretty simple and I don't think at the time we were doing the assessment I was thinking to the degree that you seem to be, certainly the thoughts that you seem to think I should have had.

Right?---At that time it was just simply an assessment: what information has she got? We know as it panned out she had information about people that were clients, people that weren't clients, and she had information that fell into the area of LPP and information that didn't. But at this particular point of time of the assessment phase I don't think I was that deeply into it.

Right. Have a think about it now. I asked you this question yesterday about you going off to see a lawyer if you were about to be charged with a very serious offence and being outraged that that lawyer was at the same time providing information against you, correct?---M'hmm.

If that was kept from you, deliberately kept from you by the prosecuting authorities or the police, you would be doubly outraged, would you not?---I would.

And if you were at trial you would expect there to be a process available for you to obtain appropriate proper disclosure about what the prosecuting authorities were doing behind your back, would you not?---I would but are you saying that under no circumstances should we have accepted any or acted on any information, whether we thought it was not LPP or not?

Don't worry about LPP, Mr White. I'm talking about fundamental principles of the criminal justice system that I put to you yesterday?---Well I can only say what I've

16:04:16 1 previously said to you on this. I agreed to your
16:04:18 2 proposition yesterday and in relation to the conflict of
16:04:21 3 interest issue, I think that was a matter for her. I did
16:04:25 4 not think it was a matter for us and that's how we
16:04:30 5 proceeded.
6
16:04:31 7 I might re-put the question that I put to you before. If
16:04:34 8 your barrister was acting against your interests and
16:04:37 9 providing information against you with a view to having you
16:04:39 10 convicted whilst at the same time pretending to act in your
16:04:43 11 interests, one, you'd be outraged and, two, you would
16:04:49 12 expect that the criminal justice system would ensure that
16:04:53 13 you got appropriate disclosure about it, would you
16:04:56 14 not?---No, I don't agree with that completely.
15
16:04:58 16 You'd be quite content, would you, for your barrister to be
16:05:01 17 providing information against your interests whilst
16:05:04 18 pretending to act in your interests?---I don't think
16:05:09 19 somebody that is being represented by a barrister and then
16:05:16 20 goes and tells that barrister about cooking amphetamine in
16:05:21 21 clandestine labs or importing four and a half tonnes of
16:05:26 22 MDMA is in much of a position to be too upset about that.
23
16:05:31 24 See, the point is this: you're quite happy to connive in
16:05:36 25 and permit that barrister to go to court or advise that
16:05:40 26 person when you know that they're in fact providing
16:05:46 27 information against them. That's the point that I'm making
16:05:48 28 to you. Do you not follow that point?---No, I do follow
16:05:51 29 that point. I've already conceded to you that I would not
16:05:55 30 be happy. But by the same token I don't think there's an
16:05:59 31 expectation that I can go and confess to my barrister that
16:06:03 32 I'm committing all these serious crimes and think that
16:06:08 33 nobody's ever going to know about it.
34
16:06:10 35 But the reality is that barrister should not be acting for
16:06:13 36 that person, do you accept that proposition?---As I said to
16:06:16 37 you, this is a matter of ethics for the barrister.
38
16:06:21 39 What, do you say that it's got nothing to do with the
16:06:24 40 police who are gathering the information?---I think the
16:06:26 41 police job when they're getting this information is to make
16:06:29 42 sure that it's, in this case, not the subject of LPP and
16:06:33 43 then act on it. I don't think we should be refusing to
16:06:37 44 receive that information or act on it, especially when you
16:06:40 45 consider the nature of the offences involved.
46
16:06:44 47 When the person does in fact go and act for the person,

16:06:48 1 having provided the information to you, do you believe that
16:06:51 2 there is no obligation upon you to disclose that
16:06:53 3 information to the court or to the person?---No, I don't
16:06:59 4 say there's no obligation on us to disclose it.
5
16:07:02 6 Right. But the situation is this: you were engaged to get
16:07:06 7 information from Ms Gobbo, a barrister, about her clients
16:07:10 8 and you understood that she was actively representing those
16:07:13 9 people in court, going to court and presenting to the court
16:07:19 10 that she was acting in those people's interests,
16:07:29 11 right?---Was that the question or was that - - -
12
16:07:31 13 Yes, that was the question?---You've asked me the same
16:07:34 14 question in about five different ways and I'm not going to
16:07:37 15 give you a different answer.
16
16:07:38 17 Yes?---Just because you don't like it. I think I've made
16:07:43 18 my view fairly clear on this particular point, Mr Winneke,
16:07:47 19 and I don't think I can assist you much further.
20
16:08:01 21 If we can move on. Ms Gobbo made it plain to you that she
16:08:21 22 was concerned about Mr Mokbel, correct? If you go to p.11.
16:08:33 23 "The reality is, I've said this in meetings, I'm dealing
16:08:37 24 with someone who scares me enough that no matter what you
16:08:40 25 people do, if anyone found out about it, I'm just, nothing
16:08:44 26 you can do will protect me". Do you think that that was a
16:08:49 27 valid concern that she had?---Absolutely.
28
16:08:53 29 You say, "Indeed, I'll be completely frank with you. If
16:08:56 30 you don't have that concern, if you had total faith in the
16:08:58 31 police then I think you're probably fairly foolish because
16:09:02 32 there's a bit of a history of things going wrong",
16:09:05 33 right?---Yes.
16:09:05 34
16:09:07 35 "And the murder of the Hodsons would be reasonably fresh in
16:09:11 36 your mind"?---Yes.
37
16:09:15 38 You say, "That's why we've taken steps to do something
16:09:19 39 significantly different with how we're managing you. You
16:09:22 40 know, we didn't send you down to Middle Park just to jerk
16:09:26 41 you around, there were specific reasons for that". She
16:09:29 42 says, "Yeah, I get that", okay?---Yes.
43
16:09:35 44 I want to play another recording to you on p.12.
16:10:03 45
16:10:04 46 (Audio recording played to court.)
16:10:13 47

16:10:13 1 That's an accurate recording of what she said to you
16:10:15 2 and what you said to her, correct?---Correct.
3
16:10:19 4 And obviously that was not true what you said to her,
16:10:24 5 correct? Well it wasn't true?---Well I'm just wondering
16:10:32 6 what I can say about this.
7
16:10:35 8 Okay, don't say anything. But do you accept the
16:10:38 9 transcript?---Yes.
16:10:40 10
16:10:40 11 MR CHETTLE: Commissioner, there is an issue here that I
16:10:42 12 would have to raise with you because if Mr Holt isn't, then
16:10:45 13 I do. This is an reflection on my client's credibility,
16:10:51 14 it's attacking his credit and there's an answer to it and
16:10:54 15 he's not allowed to give it and it's just not fair.
16
16:10:57 17 MR WINNEKE: Commissioner, all I asked the witness was
16:11:00 18 whether it was true or not and he accepted it wasn't true.
19
16:11:03 20 COMMISSIONER: That's true.
16:11:04 21
16:11:04 22 MR CHETTLE: Yes, I know. But it's unfair in the context
16:11:07 23 that he can't explain why it's untrue. I think the
16:11:10 24 Commissioner will get what I'm saying.
25
16:11:12 26 COMMISSIONER: I do get what you're saying.
27
16:11:14 28 MR WINNEKE: Commissioner, I'm not going to attack the
16:11:16 29 witness's credit on the basis of that untruth that he told.
16:11:19 30 I understand and accept that there was a reason why, it's
16:11:23 31 not going to be an issue.
16:11:24 32
16:11:24 33 MR HOLT: I think that's enough, Commissioner.
34
16:11:28 35 COMMISSIONER: It is important to know, Mr Chettle. Why I
16:11:31 36 asked the question is it's important to know that Ms Gobbo
16:11:35 37 at this stage of the recruitment process was being told an
16:11:39 38 untruth by the police. That's very important, Mr Chettle.
16:11:42 39 Thank you. Is this a convenient time to adjourn?
40
16:11:48 41 MR WINNEKE: Yes, thanks Commissioner.
42
16:11:49 43 COMMISSIONER: All right then, thank you.
16:12:42 44
16:12:43 45 <(THE WITNESS WITHDREW)
16:12:45 46
16:12:48 47 ADJOURNED UNTIL THURSDAY 1 AUGUST 2019