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09:32:48 1 COMMISSIONER: Yes, so we're in closed hearing.
09:32:51 2
09:32:52 3 MR WINNEKE: Yes thanks Commissioner.
09:32:52 4
09:32:53 5 COMMISSIONER: And the orders that were existing when this
09:32:56 6 witness was last giving evidence before the Commission. I
09:32:59 7 understand Mr White is on the line and can hear us?---Yes.
09:33:02 8
09:33:02 9 And we can hear him.
10
11 MR WINNEKE: Good.
12
09:33:06 13 COMMISSIONER: Yes.
09:33:06 14
09:33:07 15 <SANDY WHITE, recalled:
09:33:10 16
17 MR WINNEKE: Thanks very much, Mr White, apologies for the
18 break down.
19
09:33:10 20 COMMISSIONER: Can I just mention the appearances are as
09:33:13 21 for yesterday except we have Mr McDermott today for the
09:33:17 22 State of Victoria. Thank you, yes.
09:33:20 23
09:33:20 24 MR WINNEKE: Yes, thank you. Just before I move to the
09:33:25 25 last document that I want to take you to, Mr White,
09:33:30 26 Mr Chettle asked you about a piece of evidence that you
09:33:35 27 gave before Justice Kellam in his inquiry. You recall
09:33:39 28 that?---Yes, I do.
09:33:40 29
09:33:40 30 You've been provided with the transcript of the evidence
09:33:44 31 that you gave before I suppose Mr Kellam and you've
09:33:51 32 reviewed that transcript, haven't you?---I have looked at
09:33:54 33 it some time ago, yes.
09:33:56 34
09:33:56 35 Are you content with the contents of that evidence or do
09:34:02 36 you want to change anything with respect to that
09:34:06 37 evidence?---No, I believe I'm content with it.
09:34:10 38
09:34:10 39 Okay, thanks very much. Now, one of the things that
09:34:14 40 Mr Chettle asked you concerned the showing to Ms Gobbo of
09:34:23 41 statements or draft statements that had been made by [REDACTED]
09:34:29 42 [REDACTED] and I think he took you to a note in the source
09:34:32 43 management log about the purpose of that exercise and I
09:34:40 44 think the note that he referred to and you agreed with was
09:34:54 45 that - I'll just take you to it - p.35 of the 3838 source
09:34:59 46 management log. "Source read statements by [REDACTED],
09:35:03 47 prepared by Detective Sergeant Flynn, re possibility of

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09:35:07 1 compromise issues"?---Can you give me the date please,
09:35:11 2 Mr Winneke?
09:35:12 3
09:35:12 4 Yes certainly. 9 June 2006?---Yes, I see that.
09:35:26 5
09:35:29 6 You say that was the purpose of showing her those
09:35:33 7 statements?---Yes.
09:35:36 8
09:35:37 9 Indeed, she wasn't simply shown statements, she was shown
09:35:41 10 draft transcripts of listening device product, is that
09:35:45 11 right?---I don't know exactly what she was shown at this
09:35:49 12 stage, I'd have to look at the contact report.
09:35:52 13
09:35:52 14 All right. What I want to do is just take you through some
09:35:59 15 transcript. This meeting was recorded and there was a
09:36:07 16 transcription made of it. If we can go to
09:36:22 17 VPL.0005.0097.0662. This is 9 June 2006. That's not the
09:36:30 18 first page but if we can go to that particular page. I
09:36:37 19 just want to ask you some questions about that meeting that
09:36:40 20 you had. Do you see that page there in front of you?---Can
09:36:44 21 you give me one second to grab my glasses?
09:36:47 22
09:36:47 23 Yes, certainly?---I see that.
09:36:57 24
09:36:59 25 This is, just to put it in perspective, about [REDACTED] weeks
09:37:05 26 after the arrest of [REDACTED] on PII [REDACTED]. We're now up to
09:37:09 27 [REDACTED] 2006?---Yes.
09:37:10 28
09:37:13 29 [REDACTED] has an on the record solicitor, if you like, that
09:37:17 30 is Mr Tony Hargreaves, do you accept that?---Yes.
09:37:20 31
09:37:20 32 That was clearly known at that stage, right?---If that's
09:37:27 33 what's apparent in the transcript.
09:37:29 34
09:37:29 35 It's apparent from the transcript and what the discussion,
09:37:35 36 at this stage there's a discussion that is about who's
09:37:39 37 going to conduct the negotiations on behalf of [REDACTED] to
09:37:44 38 resolve his matter, to get a deal for him, and you say,
09:37:49 39 "And these negotiations are entered into, assuming
09:37:52 40 everyone's okay, everybody's happy". And then there's, I
09:37:58 41 mean obviously with all of these transcripts there's lots
09:38:00 42 of dot dot dots?---Yes.
09:38:02 43
09:38:03 44 Because the transcribers can't hear exactly. It really
09:38:06 45 takes a careful listening to really find out whether you
09:38:09 46 can find extra words or not. In any event what I'm
09:38:12 47 suggesting to you is the gist of it is - Ms Gobbo's saying,

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09:38:16 1 look, there is a little bit, for example, Tony Hargreaves
09:38:20 2 reckons he spoke to either Bartlett or O'Brien and there
09:38:25 3 was an agreement with respect to [REDACTED] brother, that
09:38:28 4 they wouldn't talk about [REDACTED], because there was [REDACTED] in
09:38:32 5 [REDACTED] And then there's comments by Ms Gobbo about whether
09:38:37 6 or not Mr Hargreaves likes or doesn't like or agrees or
09:38:43 7 doesn't agree with Mr O'Brien, do you see that?---Yes.

09:38:47 8
09:38:47 9 If we go over the page, she says, "Look I actually trust
09:38:56 10 Jim O'Brien because I have to because I'd be killed if he
09:38:59 11 talked about me, like it's a real mess", et cetera. She
09:39:07 12 then says, "What I said to Tony Hargreaves, is like he said
09:39:11 13 to me 'No one on this earth can negotiate better for
09:39:17 14 [REDACTED] or understand it as well as you can' and he said,
09:39:23 15 [REDACTED] has told me he doesn't want anyone else to be
09:39:26 16 involved, he doesn't want a QC, he certainly doesn't want
09:39:31 17 Con, he wants you to do it'. So the problem is I don't
09:39:34 18 mind doing it, but in terms of acting for [REDACTED] I
09:39:38 19 can't let him sign anything until he knows what he's going
09:39:43 20 to get". Clearly the discussion is about Ms Gobbo acting
09:39:47 21 for [REDACTED] and in effect making representations on his
09:39:52 22 behalf, do you see that?---Yes.

09:39:54 23
09:39:56 24 If we go over to the next page, 664, about halfway down,
09:40:00 25 and you say, "The other side of the coin is he will say
09:40:06 26 it's [REDACTED] and [REDACTED] are no good as witnesses
09:40:13 27 unless they're 100 per cent truthful" and Ms Gobbo agrees
09:40:18 28 with that. Then there's further discussion and you're
09:40:21 29 talking about what appears to be complexities or complex
09:40:25 30 matters and she says, "And that's where I'm coming in, but
09:40:28 31 that's also - no, no, not just so much that, that's why I'm
09:40:33 32 coming in to read the statements because unless he's ..." -
09:40:40 33 and listening to the tape appears to suggest that she's
09:40:43 34 saying, "Unless he's fully frank" and she says, "I couldn't
09:40:48 35 agree more". She's effectively saying, "I want to see
09:40:52 36 what's in the statements and make sure that he's telling
09:40:55 37 the truth and fully frank and so forth". Do you agree
09:41:00 38 that's really what she's saying?---That's probably one
09:41:03 39 reason she was looking at them.

09:41:05 40
09:41:07 41 And if we then go over to p.666. At the top of the page
09:41:16 42 she's saying, "I don't think I've got any difficulties with
09:41:21 43 Jim O'Brien. I can't say to Tony Hargreaves, 'Listen'" -
09:41:24 44 and then - I assume that's, "Mr Smith's told me that, and
09:41:29 45 like I've got to trust you for the rest of my life, you
09:41:32 46 know, not just for the next year but forever". What I'm
09:41:36 47 suggesting to you is that effectively she's saying, "Look I

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09:41:39 1 can't tell Mr Hargreaves what my true position is with
09:41:44 2 respect to my involvement with handlers, with the SDU, the
09:41:49 3 fact that I'm an informer", do you agree with
09:41:54 4 that?---Without reading this transcript in its full context
09:41:58 5 I'm not really sure whether I can agree with that but - - -
09:42:04 6
09:42:04 7 Sorry, go on?---Certainly she wouldn't be able to tell Tony
09:42:09 8 Hargreaves about her role with the police.
09:42:11 9
09:42:11 10 No. And she wouldn't be able to say to him, "Listen, Tony,
09:42:15 11 I've got these draft statements. I've read the statements,
09:42:19 12 I'm going to negotiate with Mr Coghlan on behalf of the OPP
09:42:25 13 and see if I can get a good deal and I'm in this reasonably
09:42:30 14 strong position because in effect I know what the police
09:42:33 15 are doing, I know what the handlers are doing and I know
09:42:36 16 what Mr O'Brien, at least to some extent, is doing. I'm in
09:42:41 17 a stronger bargaining position than Mr Hargreaves might
09:42:46 18 realise", do you follow what I'm saying?---I think I do.
09:42:49 19
09:42:50 20 Ultimately that's the situation, she's not saying to
09:42:53 21 Mr Hargreaves, who is actually the solicitor for [REDACTED]
09:43:02 22 "I'm an informer". Do you accept that?---Yeah -
09:43:12 23 absolutely, I accept that she couldn't say to him that she
09:43:14 24 was an informer.
09:43:15 25
09:43:17 26 And then if we go over to p.668. Bottom of 667, "It's all
09:43:24 27 very convoluted, I keep saying to Tony, I keep saying to
09:43:29 28 Tony, 'Just relax, it's under control, I'm looking after
09:43:33 29 [REDACTED] just leave it alone'" and Mr Green says, you
09:43:38 30 don't - he's saying "don't start sweating", effectively
09:43:42 31 repeating what Ms Gobbo is saying to Tony Hargreaves,
09:43:45 32 "Don't sweat, I've got it under control". You say, "You
09:43:49 33 can't say too much, and I understand the position you're
09:43:52 34 in. What I'm concerned about is not really, to be honest
09:43:53 35 with you, the negotiations to do with [REDACTED] because
09:43:56 36 that's between you and him and the OPP". And you say,
09:44:03 37 "What we're concerned about is how this is all going to pan
09:44:08 38 out". Then if we go over the page, you're saying, "Well
09:44:12 39 look, I want to try and work through it logically in my
09:44:17 40 head so I can figure it out. Well when the statements go
09:44:20 41 to you, do they go to you overtly, covertly? Obviously
09:44:24 42 tonight's covertly, but at some point they're going to go
09:44:29 43 to you overtly. How do we explain that or do we even need
09:44:34 44 to explain it or is it going to get out to - obviously is
09:44:37 45 it going to get out to [REDACTED] or those sort of people
09:44:41 46 (indistinct) and if so what position does that put you in?
09:44:41 47 that's all I'm interested in". Ms Gobbo says, "Well no,

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09:44:46 1 not now, it's not going to get out to them". And you say,
09:44:50 2 "So what happens tonight? We won't get to them. No,
09:44:54 3 that's right", says Ms Gobbo, "Absolutely. But when they
09:44:57 4 go to Tony, that is the statements, and then negotiations
09:45:03 5 between you, Tony, Jim" and it says "and/or Coghlan" but
09:45:09 6 what I suggest to you is it's, "And Paul Coghlan occur, is
09:45:13 7 that going to be kept quiet surely?" And Ms Gobbo says,
09:45:18 8 "No, it won't be". Do you recall now what you were trying
09:45:21 9 to work out in your head - why wouldn't it be, yes.
09:45:29 10
09:45:30 11 COMMISSIONER: Then she later says "of course it can".
09:45:33 12
09:45:33 13 MR WINNEKE: "Of course, it can." You say, Mr White,
09:45:40 14 you're happy that Tony will keep that fairly quiet or - -
09:45:46 15 -?---Sorry, can I just interrupt for a second?
09:45:49 16
09:45:49 17 By all means?---It was a reference to my name.
09:45:53 18
09:45:53 19 I asked that that be withdrawn.
09:45:56 20
09:45:56 21 COMMISSIONER: Yes, we'll remove that and replace it with
09:45:59 22 Mr White. Thanks Mr White.
09:46:01 23
09:46:01 24 MR WINNEKE: Can you explain what it was that you were
09:46:03 25 concerned about, what the issue was as far as you were
09:46:06 26 concerned with respect to the provision covertly and
09:46:11 27 overtly of the statements? What were the difficulties you
09:46:14 28 were concerned with there?---I can't recall this
09:46:16 29 conversation but it seems to be that I'm worried about the
09:46:19 30 fact that she's, her role as an informer is going to come
09:46:23 31 out, you know, at some point in time. I think it's just an
09:46:26 32 extension of these ongoing conversations we've had with her
09:46:30 33 about all this.
09:46:31 34
09:46:35 35 Would that include the provision to her covertly of the
09:46:40 36 statements and her discussions with you about the
09:46:42 37 statements and what's in them?---It may well have.
09:46:45 38
09:46:48 39 On any view that part of it you understood wouldn't get
09:46:56 40 out?---I don't know if I understood it wouldn't get out but
09:46:59 41 I think the conversations obviously expressing my concern
09:47:04 42 that they will get out and that her relationship with us
09:47:07 43 will also come out, she'll be compromised and the
09:47:11 44 ramifications of that as we discussed.
09:47:14 45
09:47:14 46 I follow that. Ms Gobbo seems to be saying, "Look, no, I
09:47:18 47 can have discussions with Paul Coghlan, with Tony

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09:47:21 1 Hargreaves", et cetera, et cetera, and that can be done in
09:47:28 2 effect an open way, in the normal sort of a way, "But
09:47:33 3 there's also this concern that you have about even then
09:47:38 4 will Tony keep that fairly quiet and what about Mr Coghlan,
09:47:42 5 will he keep that quiet?" She says, "I think he will but I
09:47:47 6 don't necessarily trust some of his staff". That may well
09:47:50 7 be a separate issue. What I'm more concerned about is the
09:47:54 8 covert aspect of this and I put this proposition to you:
09:47:58 9 it was your view that covert aspect of it, Ms Gobbo's
09:48:03 10 involvement in this covert way would not get out?---I would
09:48:08 11 have hoped that it wouldn't have got out, certainly.
09:48:11 12

09:48:11 13 Yes, okay. Now the conversation goes on and if we move on
09:48:16 14 to p.674. There are obviously quite a number of matters
09:48:22 15 which are discussed on this night. I just want to focus on
09:48:25 16 a couple of them. If we go to 674, about halfway down the
09:48:31 17 page you say to Mr Green, "Well have you got much more to
09:48:35 18 go through?" He's obviously the handler at that stage,
09:48:38 19 you're the controller and he's got in effect a task list of
09:48:44 20 matters he has to go through, do you accept that?---That's
09:48:47 21 probably right, yes.
09:48:48 22

09:48:48 23 He says, "Um just ... or" and then there's, if you go
09:48:53 24 further down Ms Gobbo says "Mr Bickley" Now, what he says is
09:48:58 25 Mr Bickley At that stage you start talking about
09:49:04 26 Mr Bickley right?---Okay, yep, (indistinct) the transcript.
09:49:13 27

09:49:13 28 I'm not going to go through all the details of that. If we
09:49:17 29 flick over the page you'll see Mr Green says, "Who knows
09:49:22 30 about the Mr Bickley Camilleri pay this and the tape", it
09:49:29 31 says papers but if you listen to the tape it says, "And the
09:49:32 32 tapes will go away story". Ms Gobbo says, "Camilleri and
09:49:36 33 me, Zarah", it says "maybe Zarah". What I'm suggesting to
09:49:44 34 you is there then follows a discussion involving
09:49:45 35 Mr Bickley You know at this stage that Mr Bickley is
09:49:52 36 going to be arrested on 13 June and that's been put in
09:50:00 37 place because you have a discussion with Mr O'Brien the day
09:50:03 38 before this conversation about a number of matters, one of
09:50:09 39 which is the arrest of Mr Bickley and what role, if any,
09:50:12 40 Ms Gobbo might have in that arrest. Do you accept that
09:50:17 41 proposition, without me taking you to your notes?---If it's
09:50:22 42 in my notes.
09:50:23 43

09:50:23 44 Yep?---Then I accept what's in my notes, yes.
09:50:27 45

09:50:27 46 Indeed, by this stage the DSU has been having discussions
09:50:33 47 with Ms Gobbo about arrest tips, and indeed there are notes

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09:50:36 1 in the ICRs about arrest tips and how Mr Bickley arrest
09:50:42 2 might be achieved in such a way that he'll eventually roll
09:50:48 3 over and assist the police. Do you accept that
09:50:51 4 proposition?---I'm just wondering, Mr Bickley was already
09:50:55 5 on bail at this point.

09:50:57 6
09:50:57 7 No, he wasn't - yes, he was on bail, you're quite right,
09:51:02 8 yes, he was. He was on bail. The plan was that he was
09:51:06 9 going to be arrested again on 13 June?---Okay. Can you
09:51:09 10 tell me what that was for?

09:51:12 11
09:51:17 12 Effectively what had occurred was that - and I think we've
09:51:21 13 got to be a bit careful about this - had engaged
09:51:25 14 in conduct which had assisted the police get evidence
09:51:29 15 against Mr Bickley and they were, that evidence was
09:51:33 16 enabling the police, Mr O'Brien, to arrest him for conduct
09:51:37 17 with respect to or . You
09:51:42 18 recall there was the business about and so
09:51:45 19 on and so forth, do you accept that?---Yes.

09:51:47 20
09:51:58 21 There's discussion about Mr Bickley and the arrest tips and
09:52:04 22 then when - I think if we go over to p.677, you say, "Who's
09:52:16 23 representing Mr Bickley And Ms Gobbo says, "Theo
09:52:21 24 Magazis", do you see that?---Yes.

09:52:23 25
09:52:24 26 Then there's ongoing discussions about him and I'm not
09:52:28 27 going to go through all of those discussions, but I do want
09:52:31 28 to take you to some further discussions which occur at
09:52:35 29 p.693 or 0693 because at that stage Mr Green says, "Who's
09:52:41 30 he going to ring when he gets pinched?" About halfway down
09:52:52 31 on 0693. And she says, "Me I suspect". Do you see
09:53:03 32 that?---Yes.

09:53:04 33
09:53:05 34 And he says, "Is that a good thing?" And Ms Gobbo says,
09:53:09 35 "Well, it's good and bad". And she says, "Yeah, it's good
09:53:18 36 from, good from the point of view, one, that he will be
09:53:21 37 properly represented". Now you recall that one of the
09:53:27 38 whole reasons that this relationship developed in the very
09:53:31 39 first place was that Ms Gobbo felt that she couldn't
09:53:35 40 properly represent Mr Bickley because she was acting for
09:53:38 41 Mr Mokbel and that sort of caused her to go into a tail
09:53:41 42 spin which led her to Mr Rowe and Mansell and so forth,
09:53:46 43 into your arms, do you accept that?---Yes.

09:53:48 44
09:53:48 45 So that's her first point, to be properly represented.
09:53:52 46 Secondly, there's dot dot dots there but I suggest to you
09:53:56 47 it says, "I've got a vested interest in him not telling the

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09:54:01 1 truth to the police about the phone that I handed over to
09:54:03 2 them". Now, you recall I put to you that one of the
09:54:07 3 issues, one of the problems that had occurred is that in
09:54:10 4 this case she had handed over a phone which had then been
09:54:15 5 used by Mr Bickley to communicate with [REDACTED] in relation
09:54:19 6 to the offending that they were engaged in. You recall I
09:54:25 7 put that to you, I was asking you questions about that I
09:54:27 8 think on Monday?---Yes.

09:54:33 9
09:54:34 10 So that was something - - - ?---Sorry, you will have to
09:54:38 11 refresh my memory. Are you saying to me that she was given
09:54:42 12 a phone to hand to Mr Bickley by [REDACTED]

09:54:45 13
09:54:45 14 Yes, that's correct. And then what had occurred was that
09:54:48 15 she had, in order to record that, the phone number of that
09:54:52 16 phone, she had texted her, texted herself and then it
09:55:00 17 became apparent that that phone number was on her
09:55:04 18 telephone, and aside from the fact that she was involved in
09:55:08 19 the process of handing over the phone, conceivably then
09:55:11 20 there would be CCR records of her telephone being on that
09:55:15 21 telephone number. So that was going to cause difficulties
09:55:18 22 for the police as well, do you accept that
09:55:20 23 proposition?---Yes.

09:55:20 24
09:55:22 25 Those were some of the complications that were going on
09:55:25 26 with her involvement in this whole process. And ultimately
09:55:32 27 I think the SDU gave instructions to, I think to
09:55:38 28 Mr O'Brien, that there should be restrictions on the dates
09:55:41 29 that the CCR records were compiled to exclude that date
09:55:49 30 when Ms Gobbo text herself the telephone number so her
09:55:53 31 phone number wouldn't come up. Do you accept that
09:55:56 32 proposition?---If that's in the diary and contact reports,
09:56:01 33 yes.

09:56:01 34
09:56:01 35 It is in the materials, all of that is in the materials.
09:56:06 36 It's just another example of the complications that were
09:56:11 37 thrown up all of the time involving Ms Gobbo, do you accept
09:56:14 38 that?---Yes, I do.

09:56:16 39
09:56:16 40 Then she says, "Well look, I don't know who's going to
09:56:21 41 arrest him. What if some police officer doesn't know
09:56:25 42 anything about me or what if" - and Mr Green says, "That's
09:56:31 43 not the problem, it's just that someone at a higher level,
09:56:34 44 but anyway. Hang on", she says, "It is a problem, what if
09:56:40 45 there are eight police in the crew that arrest him when it
09:56:42 46 happens, and let's say one of the eight police, say Dale's
09:56:46 47 there" - that's Dale Flynn - "and he happens to know the

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09:56:48 1 true picture, that's okay", because Dale Flynn knows that
09:56:53 2 she's an informer, but in any event, "So that's okay,
09:57:02 3 because if any, if Bednarski says anything to him about the
09:57:06 4 whole meeting, [REDACTED] phone exchange scenario Dale's not
09:57:13 5 going to write it down, he's not going to give evidence
09:57:16 6 about it". In other words, "I know that he's not going to
09:57:19 7 write that down in his notes because he's going to protect
09:57:22 8 me, but what about if any of the other seven people with
9 him, what if Mr Bickley [REDACTED] alone with them and starts talking
09:57:26 10 to them? That's very, very worrying". Do you see what
09:57:29 11 she's concerned about and the difficulties that
09:57:32 12 arise?---Concerned about the - - -

09:57:34 13
09:57:35 14 If a police officer writes down his - - - ?---Writing down
09:57:40 15 that phone.

09:57:40 16
09:57:40 17 Yes, her involvement in passing on the phone, and she's
09:57:43 18 keen that that doesn't get out. Obviously that's something
09:57:46 19 that you as her handler would be very keen not to get out
09:57:51 20 also, do you accept that?---Yes.

09:57:52 21
09:57:53 22 In other words, that what in fact occurred, the truth, you
09:57:59 23 don't want it to get out. Do you accept that?---The fact
09:58:09 24 that she's passed on that phone, yes.

09:58:11 25
09:58:11 26 Albeit that's something that you want to keep your foot
09:58:17 27 on?---Yes.

09:58:17 28
09:58:20 29 If we go over the page - in fact then it goes on and
09:58:28 30 Mr Green says, "That's very unlikely" and you say, "Don't
09:58:30 31 worry about that, Dale will be, Dale will be ..." If we go
09:58:37 32 over the page, she says, "Then it has a disadvantage in
09:58:54 33 that do I really want to be associated with yet another
09:58:56 34 person who's talking to the police?" And you say, "No,
09:58:59 35 well the answer to that's no". Then over the page, over to
09:59:04 36 696, Mr Green says, "All right, well so, well if he gets
09:59:12 37 pinched what can we do to keep you out of the loop?" And
09:59:15 38 Ms Gobbo says, "Don't lock him up. If you lock him up
09:59:23 39 you're going to get into even more trouble". But then
09:59:26 40 Mr Green says, "But straight away he's going to, he's going
09:59:27 41 to say 'I want to ring a solicitor' before we even get a
09:59:31 42 chance to put any options and get the thought processes
09:59:33 43 going". Then there's a discussion about accepting that he
09:59:38 44 calls Ms Gobbo, what's the best way for him to get advice
09:59:44 45 from her - I'll put this to you as a general proposition -
09:59:48 46 what's the best way for her to give him advice which will
09:59:56 47 result in him rolling and assisting the police but that not

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09:59:58 1 becoming apparent to all and sundry, do you accept that
10:00:02 2 that's the discussion that was being had?---No, I'd have to
10:00:05 3 read the whole thing to accept that.
10:00:07 4
10:00:07 5 I'll take you through a little bit then. If we go to
10:00:13 6 p.697, Mr Green says, "Well what if you're not, what if
10:00:22 7 you're unavailable and have your phone diverted?" And
10:00:26 8 there's a reference to another solicitor, "Not Dan
10:00:31 9 Kowalski, that's no" - something there - "but I don't know,
10:00:33 10 Tony Hargreaves phone for example". Ms Gobbo says, "No,
10:00:37 11 he's going to ring Theo then". That's Theo Magazis who
10:00:42 12 we've discussed already. Mr Green says, "And we don't want
10:00:46 13 him to ring Theo, no". Ms Gobbo says, "He'll ring Theo and
10:00:51 14 say, he'll say to Theo, 'You try to ring her'. That's a
10:00:55 15 reference to her, Ms Gobbo. "Because he'll think the
10:00:59 16 police are bullshitting to him like they did last time when
10:01:04 17 they conveniently rang my old phone number". There's a
10:01:06 18 discussion then about what had occurred when he was
10:01:09 19 initially arrested and she didn't get the telephone call,
10:01:13 20 et cetera. So there's that. If we then go over to - just
10:01:19 21 excuse me. If we go over to p.699, at about a third of the
10:01:31 22 way down, Mr Green says, "That's a real sticking point
10:01:34 23 then". And you say, "Well we could, if, if he rings you
10:01:39 24 and you come down and get involved in whatever capacity.
10:01:42 25 Yep". Mr Green says, "Actually because if you turn around
10:01:47 26 and say, 'Don't say anything' and then you go back and you
10:01:50 27 ring Horty and whatever else and say". Then you say, "I
10:01:54 28 just want to work through the options, right. One is you
10:01:58 29 go down there and you say 'keep your mouth shut' and then
10:01:59 30 you get back to your office and you ring Horty and you say,
10:02:01 31 'Just for your fuckin' information, yep'" - over the page,
10:02:05 32 "The police have got Mr Bickley down at the station, I've
10:02:09 33 told him to say nothing". She says, "I wouldn't do that,
10:02:13 34 but yeah". You say, "No, I know but that's probably the
10:02:15 35 safest course you could take but it doesn't help the cause
10:02:19 36 at all". Do you see that, that's what you say?---Yes.
10:02:23 37
10:02:23 38 The cause being to have Mr Bickley to roll and assist the
10:02:27 39 police. If Gobbo says, "Say nothing", that doesn't help
10:02:31 40 the cause, do you follow that?---Yes.
10:02:33 41
10:02:34 42 And then, "The next option is you go down there and you get
10:02:39 43 involved, as you have with [REDACTED] and ...", and the dot
10:02:47 44 dot dots I suggest include the word or the surname of
10:02:51 45 [REDACTED] et cetera, et cetera, "And then you've got the
10:02:54 46 same problem. If you go down there and get involved,
10:02:58 47 you've got the same problems we've had previously with

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10:03:01 1 [REDACTED] and you've got the problems with the same sort of
10:03:04 2 issue with [REDACTED]. And she says, "Well no, it wasn't
10:03:08 3 the same situation with [REDACTED]. In fact I withdraw
10:03:17 4 that. You say, "Look you know what I'm saying, we've got
10:03:24 5 those problems down the track". We can all understand what
10:03:29 6 the problems are that you're talking about there, do you
10:03:31 7 accept that?---Yes.

10:03:32 8
10:03:33 9 The conversation goes on but ultimately the end point is
10:03:37 10 this: it's accepted that the best course of action is for
10:03:41 11 Ms Gobbo not to go to the police station but to be
10:03:49 12 available on the telephone and to take a call and to speak
10:03:54 13 to him over the telephone. Do you accept that?---Well once
10:04:00 14 again, Mr Winneke, the material you showed to me up to this
10:04:05 15 point suggests that we're trying to stop her getting
10:04:08 16 involved in it. I can't accept your proposition unless you
10:04:12 17 show it to me.

10:04:13 18
10:04:13 19 Okay, I'll show it to you then. In any event, if we then
10:04:17 20 go to - if we go to p.703, there's more discussion about
10:04:27 21 it. You say, "Not as good as you referring him to someone
10:04:33 22 else" and Gobbo says, "Hang on, why does to need to speak
10:04:38 23 to anyone else? The ultimate aim with him ... the ultimate
10:04:43 24 aim with him anyway". You say, "The ultimate aim is to get
10:04:46 25 him to roll over basically". "And maybe assist", Mr Green
10:05:00 26 chimes in and you can read what he says after that, do you
10:05:03 27 accept that?---Yes.

10:05:10 28
10:05:10 29 Okay, do you see that?---Down the bottom of the page, yes.

10:05:14 30
10:05:14 31 Then she says what she will say to him. She says at the
10:05:18 32 top of page, "What's wrong with me explaining to him on the
10:05:22 33 phone, 'You realise that you're unlikely', I mean what's
10:05:25 34 wrong with me saying to him, 'Look, you realise you're
10:05:29 35 unlikely to get bail unless you assist the police?'" And
10:05:33 36 you say, "Well, we think there's a lot ... things you said
10:05:37 37 the last week. He's got all the reasons in the world to
10:05:40 38 want to come on board". Gobbo says, "Of course he does".
10:05:44 39 You say, "Now the concern we have is him making contact
10:05:48 40 with you and how we keep that quiet". She says, "We'll
10:05:52 41 make it in the middle of the night". You say, "What about
10:05:55 42 during the day when you're in court?" And Mr Green says,
10:06:01 43 "But even if it's in the middle of night you're still told
10:06:05 44 about it. What can you say later if asked, 'Why didn't
10:06:13 45 you, why didn't you tell us about him?'" I can
10:06:19 46 short-circuit this because ultimately it's accepted that
10:06:22 47 what will occur is that she will speak to him over the

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10:06:24 1 telephone and not go to the police station. If we go to
10:06:26 2 the ICR at p.325 I think it is. That is 3838.
10:06:43 3
10:06:43 4 COMMISSIONER: What page was that, 325 or - - -
10:06:47 5
10:06:47 6 MR WINNEKE: I think it's 325, Commissioner. 324. Do you
10:06:57 7 see that against the Mr Bickley This is a summary of the
10:07:03 8 discussion which occurs on Friday 9 June. "Phone call to
10:07:09 9 source rather than a visit, visit the station when
10:07:16 10 arrested." Do you see that?---Sorry, I'm just getting that
10:07:19 11 document.
10:07:19 12
10:07:56 13 I just want to short-circuit it, Mr White, because
10:08:01 14 ultimately that's the position that was arrived at?---From
10:08:25 15 looking at the contact report that seems to be the case.
10:08:28 16
10:08:30 17 That seems to be, I suggest, the position that was
10:08:33 18 ultimately settled upon, do you accept that?---Well - - -
10:08:43 19
10:08:44 20 And indeed it's what happened.
10:08:48 21
10:08:48 22 COMMISSIONER: Sorry, what did you say, Mr White?---I
10:08:51 23 really don't want to delay this any more than is necessary
10:08:54 24 but I think the contact report suggests that is the
10:08:58 25 position that must have been settled on.
10:09:01 26
10:09:02 27 MR WINNEKE: And that's what happened?---Clearly the
10:09:08 28 conversations in the transcript are around trying to
10:09:10 29 protect her and not having her involvement in that matter.
10:09:13 30
10:09:13 31 Ultimately what occurs is the position is that she will be
10:09:18 32 involved, she will give the advice which will lead to the
10:09:22 33 ultimate end, that is the desire on the part of the police
10:09:25 34 to have him roll over, but she does it in such a way that
10:09:30 35 gives the least opportunity for that advice that she might
10:09:35 36 provide him to get out, right?---Yes.
10:09:44 37
10:09:44 38 Okay. As I say, ultimately the purpose of this exercise or
10:09:51 39 one of the main purposes of this meeting is to provide her
10:09:55 40 with statements. If we go to p.813, after a significant
10:10:00 41 amount of discussion about other matters which include -
10:10:14 42 there'd been a bit of discussion about a number of matters
10:10:18 43 which were going on at the time, including matters
10:10:21 44 concerning Adam Ahmed, a person by the name of Shields and
10:10:28 45 a person whose name I think is [REDACTED], I think he is.
10:10:34 46 In any event, what we get to at page - yes, [REDACTED]. There
10:10:45 47 had been discussion about Adam Ahmed and Shields and [REDACTED]

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10:10:52 1 [REDACTED] Have you got that list of names there. Do you know
10:10:54 2 who [REDACTED] is?

10:11:11 3
10:11:11 4 COMMISSIONER: It's 12B on the list if you've got the list
10:11:14 5 there?---Yes.

10:11:16 6
10:11:16 7 MR WINNEKE: You know that issue I'm talking about?---Yes.

10:11:19 8
10:11:19 9 That was the alleged corruption issue about the theft of
10:11:23 10 \$20,000 allegedly from Adam Ahmed when he was arrested in
10:11:27 11 August of 2004. You understand that?---Yes.

10:11:31 12
10:11:32 13 And then - so we come back to one of the main reasons of
10:11:36 14 being there, 813, Mr Green says, "You're dead right. Well
10:11:39 15 do you want a, do you want some light reading?" That is a
10:11:43 16 reference, and if we then go over the page to 814, there's
10:11:47 17 more discussion about Dublin Street, other information that
10:11:53 18 Ms Gobbo might have, but then you chime in at the bottom
10:11:56 19 and say, "Well look, we hear what you say about that but
10:12:00 20 tonight we've got to get you to look at those statements",
10:12:04 21 do you see that?---Yes.

10:12:08 22
10:12:09 23 Then over the page, and Gobbo says, "Well why all this
10:12:14 24 about [REDACTED] and Adam now like?" Down the bottom of
10:12:18 25 the page, and there's discussion about whether or not Adam
10:12:26 26 would assist or whether she was prepared to tell you about
10:12:30 27 what Adam had to say and you say at the bottom here, "And
10:12:35 28 he said you wanted to tell us about that, and then I think
10:12:38 29 it was, 'Adam doesn't want me to talk about it or Adam's
10:12:42 30 not prepared to talk about it unless he says it's okay'."
10:12:46 31 Gobbo says, "Yeah ... I don't want to talk about it then".
10:12:50 32 Ms Gobbo says at the top of p.816, "Also that was back at a
10:12:56 33 time when I was trying to actually not tell you things that
10:12:57 34 were privileged but" - it says, "I woke up to that now".
10:12:59 35 It may well be if you listen to it it says, "I'm way past
10:13:08 36 that now". In any event that then leads to a discussion
10:13:11 37 about privilege and what it is or what information might or
10:13:15 38 might not be privileged. She says, "Of course it is. Why
10:13:18 39 isn't it? Why isn't anything, any - like when I sit here
10:13:19 40 and say to you 'this is exactly what [REDACTED] will do,
10:13:28 41 this is what he'll say to you', I mean, all of what his
10:13:33 42 communications, well mine with him, is privileged but I'm
10:13:37 43 way past that now, long past that", she says. And then
10:13:42 44 there's ongoing discussion about that and indeed it seems
10:13:47 45 to be fair to you and Mr Green you're asking her advice
10:13:51 46 about what is and what isn't, what might or might not be
10:13:55 47 privileged. She says, if you go over the page, 817, "No,

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10:14:01 1 but it's confidential communications. That's why you call
10:14:06 2 out a lawyer. Why have, what permits me to be able to talk
10:14:12 3 to anyone else about it, particularly police?" And that
10:14:16 4 discussion goes on and so clearly she's telling you about
10:14:23 5 her views about it, about privilege and so forth and
10:14:30 6 confidential communications, do you accept that?---That
10:14:35 7 she's telling us about it, yeah, and you're quite right,
10:14:38 8 obviously our comments, just reading as you're talking,
10:14:42 9 about we're trying to work out what is and what isn't
10:14:45 10 privileged, especially in relation to instructions relevant
10:14:48 11 to the defence.
10:14:50 12

10:14:50 13 Yes, I get the impression you're saying if it specifically
10:14:54 14 relates to instructions which concern a defence to a
10:14:57 15 particular charge, your view is that that would be
10:15:00 16 privileged, and indeed there's a discussion, using Adam
10:15:06 17 Ahmed as an example. You see that, "Well", and there's
10:15:10 18 talk about the tablets thrown over the back fence and you
10:15:13 19 say, "Is that part of the privileged conversation where the
10:15:18 20 only matters that concern Adam are really the 10,000 found
10:15:21 21 in the house, but the 20,000 over the back fence" - I'm
10:15:28 22 sorry, I'm on 818, do you see that? "Adam" - - -
10:15:33 23

10:15:33 24 COMMISSIONER: First of all at the bottom of the previous
10:15:36 25 page there's a passage there that seems significant. She
10:15:40 26 says, "It's in the course of the confidential relationship
10:15:42 27 or it's in the purpose of what may be litigation later on,
10:15:43 28 whether it's criminal or civil or whatever, yeah, you're
10:15:47 29 not - privilege", she says.
10:15:49 30

10:15:49 31 MR WINNEKE: Yes. You say, "Not every conversation you
10:15:52 32 have with Adam would be privileged, would it? No, no, not
10:15:56 33 at all." Then, as I say, general discussion about it. You
10:16:00 34 get down to the bottom and you're trying to work out in
10:16:03 35 your mind about what would and wouldn't. Then there's the
10:16:06 36 business about the 10,000 found in the house, the 200,000
10:16:09 37 over the back fence and she says, "No, that's all part of
10:16:12 38 the same". Then the next is attributed to you but I think
10:16:15 39 if you listen to the tape it's Mr Green, and he repeats,
10:16:19 40 "That's all part of the same". Then I think if you listen
10:16:22 41 to the tape he says, "Fuck it". But what I'm suggesting to
10:16:29 42 you is that there is this discussion about - Mr Chettle
10:16:43 43 says it's "bucket", not "fuck it". All right. Okay.
10:16:56 44

10:16:56 45 COMMISSIONER: The tape's the best evidence.
10:16:58 46

10:16:58 47 MR WINNEKE: The tape's the best evidence. Don't listen to

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10:17:02 1 me or to Mr Chettle, listen to the tape. Clearly that's
10:17:05 2 what's occurring, there's a discussion about it, do you
10:17:09 3 accept that?---Yes.
10:17:10 4
10:17:10 5 Ultimately you say is, "We were guided by her" and she's
10:17:14 6 made it pretty clear, certainly on this occasion and I
10:17:18 7 think subsequently, when she said, "Look, ethics, privilege
10:17:22 8 out the window". That's the situation, isn't it, by this
10:17:25 9 stage?---No, I don't agree with that.
10:17:29 10
10:17:29 11 All right, okay. Do you want to add to that, I don't want
10:17:34 12 to cut you off?---Well as you know we've had several
10:17:42 13 conversations about privilege and clearly this is one where
10:17:44 14 we're seeking her own views on what privilege is or isn't.
10:17:49 15 I think in relation to this, you spoke about the other
10:17:51 16 matter several weeks ago, and said that it was material
10:17:57 17 that was LPP that we did pass on. If you go further down
10:18:02 18 the page, you can see we're talking about corruption issues
10:18:06 19 and I think this was the focus of trying to get this
10:18:09 20 material from Adam Ahmed.
10:18:13 21
10:18:13 22 Yes?---We were trying to get behind the corruption issues.
10:18:18 23
10:18:18 24 I follow what you're saying. Effectively what you then go
10:18:22 25 on and say is, "Look, in answer to your question, the
10:18:26 26 interest, we're always interested, like, with respect, you
10:18:30 27 didn't want to talk about it, I mean because Adam didn't
10:18:32 28 want you to talk about it, and then sometime later, months
10:18:36 29 later we perhaps brought it up again because we thought
10:18:39 30 that you might have thought you couldn't talk about
10:18:42 31 corruption issues because we want to make sure that you're
10:18:45 32 aware that we would be happy to hear whatever you have to
10:18:48 33 say". Look effectively what you're really saying is you're
10:18:52 34 encouraging her to do what she has said she's doing anyway,
10:18:57 35 "Don't worry about privilege, just tell us what you can
10:19:01 36 about corruption issues"?---When it came to corruption
10:19:04 37 issues, yes, we thought she would not want to talk about
10:19:07 38 that.
10:19:07 39
10:19:09 40 Then if we can get back to the statements. Finally what
10:19:14 41 happens is at p.827 you say - go to 827. "How about we get
10:19:33 42 you those statements", do you see that?---Yes.
10:19:46 43
10:19:48 44 Then Ms Gobbo says that, " [REDACTED] said to me on the phone
10:19:52 45 this afternoon, he goes, 'When you see them' - because he
10:19:56 46 doesn't know that tonight, he thinks at some point, he
10:19:59 47 goes, 'You're going to be blown away by the stuff you

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10:20:02 1 read'. I don't know whether I really am or whether he's
10:20:09 2 just saying that". You say, "I haven't read them, I don't
10:20:14 3 know if Green's read them". He says, "No, I haven't even
10:20:19 4 opened it". "But I've heard some things" you say. Then
10:20:23 5 there's a reference to sticky notes. Apparently there have
10:20:25 6 been sticky notes provided. Mr Green says, effectively he
10:20:29 7 seems to be categorising, "Big trouble, little bit of
10:20:32 8 trouble, no trouble, beautiful". She says, "You haven't
10:20:37 9 got enough sticky notes for that". Do you know what that
10:20:41 10 would be about?---No, I don't. I know there was a bit of
10:20:46 11 an ongoing joke between her and one of the handlers about
10:20:49 12 sticky notes because he uses a lot of sticky notes.

10:20:53 13
10:20:53 14 All right. In any event it appears that there was sticky
10:20:58 15 notes provided for her and if we go over to the page you'll
10:21:01 16 see it's not just - at the bottom of the page it says,
10:21:08 17 "There's a historical one going back to and these haven't
10:21:12 18 been proofread", that seems to be a reference to the
10:21:15 19 statements. And then over the page, "And they're the LB
10:21:22 20 transcript", I assume that's LD, isn't it, that should be
10:21:27 21 LD transcripts?---I'd have to listen to it.

10:21:29 22
10:21:29 23 LD would be listening device transcripts, wouldn't it?---If
10:21:34 24 it actually does, if it is supposed to read LD transcripts
10:21:38 25 that would be listening device transcripts.

10:21:39 26
10:21:40 27 All right. Clearly there's reference to LD transcripts
10:21:44 28 being provided to her as you go on and read the transcript
10:21:48 29 and listen to the tape, do you accept that?---Yeah, I've
10:21:51 30 got no recollection of whether she was shown LD
10:21:56 31 transcripts. Actually, it should be in the contact report
10:21:59 32 if she was.

10:22:00 33
10:22:01 34 COMMISSIONER: Does the expression LB mean anything to you,
10:22:04 35 the initials LB?---No, Commissioner.

10:22:07 36
10:22:08 37 MR WINNEKE: Mr Green says, "I'll drop them in and there's
10:22:10 38 also [REDACTED]'s statements. They're for your
10:22:15 39 light entertainment", do you see that?---Yes.

10:22:17 40
10:22:18 41 Over the page at the top of the page on p.830, you say,
10:22:26 42 "Yeah, Mr Green can go down and get some, some
10:22:33 43 food"?---That's food.

10:22:33 44
10:22:33 45 Yeah, I know. And he says, "Yeah, but the only proviso is
10:22:39 46 that these haven't been proofread and you can write all
10:22:43 47 over them if you want". Ms Gobbo says, "Sorry? You can

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10:22:49 1 write all over them if you want to 'cause they're a work in
2 progress. If there's something that concerns please do
10:22:53 3 highlight it". Ms Gobbo says, "What are they going to do?
10:22:57 4 What are they going to do with the tapes from the first
10:23:00 5 night with [REDACTED] You know how we agreed to" - and
10:23:05 6 then there's talk about conversations when [REDACTED] was
10:23:12 7 arrested and then there's an issue about what will happen
10:23:18 8 to those tapes. Now, do you recall whether they were
10:23:20 9 discussions about official 464, s.464 of the Crimes Act
10:23:30 10 interview tapes or was there other tape that was done, was
10:23:34 11 made?---I've got no idea.

10:23:38 12
10:23:38 13 You say that conversation where you were present though,
10:23:41 14 was that taped, did you say, "... " and she says, "That
10:23:44 15 conversation after that, before [REDACTED] like", and she
10:23:48 16 says, "Remember how Dale said and Jim O'Brien said, 'You
10:23:52 17 need to commit yourself to what you're going to do.'" Over
10:23:56 18 the page, "And talk on the tape, you need to tape record
10:23:59 19 it". And she says, "I've, and I don't want that ever to
10:24:03 20 be" and Mr Green says, "That's for sure". You say, "Stage
10:24:08 21 rather than cause between the initial view and getting out
10:24:11 22 into" - there's an issue then about which conversations and
10:24:16 23 which discussions are being taped and there may well be a
10:24:21 24 lack of clarity about that. But you say you don't know
10:24:25 25 whether they're talking about official interview tapes or
10:24:30 26 tapes which were not interviews?---No.

10:24:34 27
10:24:35 28 It may well be that they're talking about tapes which were
10:24:40 29 464 tapes because if you go to the bottom of 831, she says
10:24:51 30 - you say, "And you've got a copy of those tapes" and
10:24:56 31 Ms Gobbo says, "Yeah", and you say, "Because they're [REDACTED]
10:24:59 32 [REDACTED] copies" and she says, "Yep". So it may well be that
10:25:02 33 that's a reference to the tapes of conversations which
10:25:07 34 occurred after he had agreed to assist the police. Do you
10:25:10 35 accept that?---Yes, that's a possibility.

10:25:14 36
10:25:14 37 Then over the page she says, "I've kept it, no one's ever
10:25:18 38 listened to them, I've got them" and you say, "So they
10:25:22 39 don't form part of his". Mr Green says, "They're not
10:25:26 40 evidence ... " You say, "... his confessions". She says,
10:25:31 41 "No, but I'm worried, one worries about what his bloody -
10:25:37 42 whatever they transcribe and put in the brief". So there's
10:25:41 43 that discussion about those tapes. Now, in any event it's
10:25:45 44 not clear to you whether, what those tapes are, you haven't
10:25:51 45 seen or heard or listened to them I take it, is that
10:25:54 46 right?---That's right.

10:25:55 47

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10:25:55 1 Then what happens is you go off and see if you can track
10:25:59 2 down some food and coffee and so forth and come back and
10:26:02 3 then we move on to part B of the tape. And that's at
10:26:10 4 VPL.0005.0104.0260. This is part B, it's about 180 pages
10:26:22 5 of conversation which occurs after you come back, having
10:26:26 6 gone and sourced some food. Do you recall that?---No.
10:26:31 7
10:26:32 8 In any event it's now 11.45 pm on Friday 9 June and you're
10:26:37 9 talking, and obviously you've got a recording device. "I'm
10:26:42 10 been to re-enter [REDACTED] with Ms Gobbo and Mr Green". And
10:26:49 11 she says, "You've come back just at the right time" because
10:26:52 12 apparently at that stage they were totalling up the amount
10:26:56 13 of work she'd done and they'd got to about 1.3 million and
10:27:02 14 this is the amount of work that she is indicating that
10:27:07 15 she's done for Victoria Police. Indeed, if you go to p.371
10:27:10 16 of the ICRs there's a note to the effect that, "Source has
10:27:13 17 calculated that on present charging rates she has racked up
10:27:18 18 an account for Victoria Police of around \$1.4 million", so
10:27:23 19 that calculation had apparently been done. Do you recall
10:27:26 20 that or accept that?---I don't recall it, but I accept it.
10:27:29 21
10:27:29 22 Then there's further discussion about the tapes and if we
10:27:35 23 go to p.0271, this is where she says, "But I'll say", and
10:28:04 24 she says your first name, "I'm very impressed with these
10:28:08 25 statements because when I think of the" - and a listening
10:28:11 26 to the tape reveals this. She says, "I think [REDACTED]
10:28:16 27 [REDACTED] you know who they are, she's comparing the
10:28:19 28 statements with other people's statements", right, and she
10:28:24 29 also?---Yes.
10:28:25 30
10:28:26 31 And Mr Chettle may well agree with this proposition, I
10:28:29 32 assume he has listened to it, he may not have, she says
10:28:32 33 "[REDACTED]". So she adds three names there: [REDACTED] and
10:28:37 34 [REDACTED]. Now, if you've got that table there you'll see
10:28:42 35 who [REDACTED] is?---Yes.
10:28:46 36
10:28:49 37 She goes on to say effectively, and she says, "Whose
10:28:54 38 statements I'm not supposed to have seen" but she's
10:28:58 39 apparently seen his statements as of [REDACTED] 2006, she's
10:29:02 40 apparently seen a statement or at least a statement of
10:29:06 41 [REDACTED] which she accepts that she's not supposed to
10:29:10 42 have seen. Do you recall her talking about P13 and
10:29:13 43 seeing his statement?---No.
10:29:16 44
10:29:20 45 Do you know how she did get that statement or those
10:29:24 46 statements? If you don't know, you're not aware?---No, I
10:29:28 47 don't.

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10:29:28 1
10:29:29 2 You didn't ask her about how she might have got it, I take
10:29:32 3 it?
10:29:35 4
10:29:35 5 COMMISSIONER: He said he didn't know that she had seen the
10:29:38 6 statements.
10:29:39 7
10:29:39 8 MR WINNEKE: I accept that proposition. The point I make,
10:29:42 9 Commissioner, is it's apparent she told him on this night
10:29:45 10 and I'm asking him whether any inquiries were ever made
10:29:48 11 about how he came to have those statements.
10:29:51 12
10:29:52 13 MR CHETTLE: Commissioner, that's a bit unfair. He's
10:29:54 14 looking at a transcript which doesn't have it in it.
10:29:57 15 Mr Winneke's listened to a tape - I mean I don't know
10:29:58 16 whether I've listened to this or not, I certainly don't
10:30:01 17 have a translation of it.
18
19 MR WINNEKE: No, no, I understand.
20
10:30:03 21 MR CHETTLE: The only way to properly deal with it, with
10:30:06 22 respect, is to play it.
10:30:08 23
10:30:08 24 MR WINNEKE: I'm happy to play it. It's reasonably
10:30:11 25 apparent what it is, it's quite apparent what's there and
10:30:12 26 I'm asking the witness whether - - -
10:30:15 27
10:30:15 28 COMMISSIONER: You're entitled to ask. Assuming that it
10:30:17 29 says this you're entitled to ask, "What do you say?" But I
10:30:21 30 think as the witness has said that he didn't know about
10:30:26 31 [REDACTED] statement the answer is self-evident, he doesn't
10:30:31 32 remember.
10:30:31 33
10:30:32 34 MR WINNEKE: I accept that. If the witness is saying at
10:30:35 35 the time he knew nothing about [REDACTED] and the statement,
10:30:39 36 [REDACTED] I'm sorry, and the statement and didn't make any
10:30:43 37 inquiries about it in any event that's the end of the
10:30:45 38 matter I suppose. Did you hear that, Mr White?---Yes, I
10:30:49 39 did, Mr Winneke, and unless there's something in this
10:30:52 40 transcript that takes it further, I can't help.
10:30:54 41
10:30:54 42 Okay, all right then. Thereafter what occurs is there's
10:31:04 43 more discussion about a whole lot of matters but ultimately
10:31:12 44 there are discussions about [REDACTED]'s statements and
10:31:17 45 you're clearly there. It appears to be the case that
10:31:23 46 you've got a computer and you're tapping away on it and we
10:31:29 47 can hear that. To be fair to you it seems you're

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10:31:32 1 conducting other business because you're talking about
10:31:36 2 emails you have to deal with and various other things that
10:31:39 3 you're doing. Would that be the case, that when you did
10:31:42 4 have these long dialogues and discussions with Ms Gobbo,
10:31:46 5 particularly you being the controller, you might switch off
10:31:49 6 on occasions and do other business, would that be
10:31:51 7 reasonable?---Yes.

10:31:52 8
10:31:55 9 But if we then do go to a couple of pieces of transcript.
10:32:06 10 For example if we go to p.364. You'll see there that she's
10:32:28 11 talking about, it appears she's talking about paragraph 29
10:32:32 12 in the statement that she's reading. You'll just have to
10:32:36 13 accept that proposition from me. "Tony was arrested in
10:32:39 14 August 2001 by the Federal Police importing
10:32:43 15 pseudoephedrine. No, he wasn't" she says, "He was
10:32:47 16 importing cocaine and pseudoephedrine. He does talk about
10:32:52 17 on the 30th page, that is there was an import of
10:32:56 18 pseudoephedrine". What is going on she's reading through
10:33:02 19 the transcripts, reading some of them out to you and making
10:33:03 20 comments about it. Do you accept that's what
10:33:07 21 occurred?---Yes.

10:33:07 22
10:33:07 23 Then if you go over the page, "Talks about renting a house.
10:33:13 24 This is after he's mad at ...". Effectively she's going
10:33:21 25 through what's written on the pages that you've provided to
10:33:25 26 her. If we go over to p.366, down the bottom, "And he's
10:33:33 27 confessed to me not until the night that I came to St Kilda
10:33:40 28 the first time he was arrested, or his actual arrest on the
10:33:41 29 [REDACTED] He said to me that night, 'I'm really, really sorry
10:33:46 30 because I've been using, I'm back [REDACTED] again'."
10:33:48 31 Do you see that? She's effectively saying, talking about a
10:33:52 32 discussion she's had with [REDACTED]

10:33:54 33
10:33:54 34 COMMISSIONER: This is [REDACTED] statements we're doing
10:33:57 35 now, not Mr Bickley [REDACTED]

10:33:59 36
10:34:00 37 MR WINNEKE: No, [REDACTED] Commissioner. Do you accept
10:34:01 38 that, Mr White, that she's going through the statements
10:34:04 39 that have been provided to her?---That seems to be, yes.

10:34:10 40
10:34:11 41 Over the page she's talking about medication that he's on.
10:34:17 42 "Then I noticed while he was in police custody for a few
10:34:21 43 days, she remembers an officer saying, 'We'll go and get
10:34:26 44 [REDACTED] because he was back [REDACTED] a
10:34:29 45 [REDACTED]', there's various discussions about that. Down the
10:34:34 46 bottom you say, "I mean the fact [REDACTED] and he
10:34:35 47 wasn't prepared to tell them [REDACTED], he told lies

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10:34:38 1 about going to hospital, that shows he's afraid of them".
10:34:46 2 Certainly at that stage you were aware of the issues
10:34:49 3 because you were saying, "Well look, he's afraid of the
10:34:52 4 Mokbels and he's not prepared to tell him where he is, that
10:34:57 5 shows he's afraid of them", do you see that?---Yes.

10:35:00 6
10:35:00 7 She says something which - "And that's important", you say,
10:35:05 8 and Gobbo says, "I think I would, I think, I reckon that's
10:35:09 9 important to protect his credibility that he puts that in".
10:35:22 10 These are matters that she has previously told the SDU
10:35:27 11 about and those matters are apparently either, are in the
10:35:36 12 statement or should be put into the statement, do you
10:35:38 13 accept that?---I can't, I can't tell whether they're
10:35:48 14 matters that are in the statement or matters that should be
10:35:49 15 in the statement or she's talking about historical things.

10:35:54 16
10:35:56 17 "Because he specifically told me at the time that if they
10:36:00 18 harass you about where I am", and Mr Green says, "Don't
10:36:05 19 tell them, don't tell them" and you say, "Yeah, I remember
10:36:09 20 that". It's on p.17 of the statement and then there's
10:36:14 21 reference to paragraph 65, et cetera, right?---Yes.

10:36:20 22
10:36:21 23 So clearly there's discussion going on about these draft
10:36:25 24 statements and matters that go to person's credibility in
10:36:33 25 the statements, whether or not it's in the statements,
10:36:35 26 whether or not it should be in the statements. I suggest
10:36:38 27 that that's what is going on in the discussions, do you
10:36:41 28 accept that?---Yes.

10:36:42 29
10:36:42 30 It's not simply about matters that might in some way lead
10:36:49 31 to the identification of Ms Gobbo as a human source, do you
10:36:54 32 accept that?---The pieces that you've shown me, yes.

10:36:58 33
10:37:02 34 And there's ongoing, continuing discussion about various
10:37:05 35 bits and pieces in the statement. If you go over the page
10:37:08 36 to 375, paragraph 45, he talks about, "He leaves, borrows a
10:37:14 37 car and the car, he reckons that" - and there's discussion
10:37:18 38 about that. Do you see that?---Yes.

10:37:21 39
10:37:27 40 "That's another one ... if anyone", then there's reference
10:37:30 41 to [REDACTED]. You say, "Yep, to like, to corroborate what
10:37:33 42 [REDACTED] is saying completely because [REDACTED] is very ..."
10:37:36 43 and you say, "Oh yeah". What I would like to know,
10:37:41 44 Mr White, is are you typing matters or writing down or
10:37:48 45 recording, aside from the audio recording, are you
10:37:52 46 recording any of the matters that Ms Gobbo is saying to you
10:37:56 47 or talking about?---I don't know at that time. I would

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10:38:02 1 have been probably taking notes of just the conversation.
10:38:06 2
10:38:06 3 Yes?---Typing it.
10:38:10 4
10:38:10 5 If we can hear tapping away when we listen to the audiotape
10:38:15 6 it's apparent that someone's typing and you say, "I may
10:38:20 7 well have been typing out, recording out what she is
10:38:23 8 saying", is that right?---Yes.
10:38:25 9
10:38:25 10 Because in the ICRs there's mention to minor amendments
10:38:29 11 being made to the statement. If we go to p.325. Do you
10:38:37 12 see that?---Yes.
10:38:40 13
10:38:41 14 Page 25 of the ICR it says, "[REDACTED] draft statements".
10:38:44 15 Really this is the only reference to the statements.
10:38:50 16 "Source read all the statements made by [REDACTED] to Dale
10:38:55 17 Flynn of Purana. Very impressed with the detail and
10:38:57 18 thoroughness. Source commented on a number of minor
10:39:01 19 corrections." Does that mean that when it says that she
10:39:13 20 commented on a number of minor corrections, what does that
10:39:16 21 mean? Are you able to say what that means?---Well probably
10:39:23 22 some of the things that you've taken us to in this
10:39:25 23 transcript, for example the one you made a reference to at
10:39:30 24 the outset where there was talk about, about only
10:39:38 25 pseudoephedrine I think and she makes a comment that it
10:39:41 26 should have included cocaine and something else.
27
10:39:44 28 Right?---I think that's her picking up things that he
10:39:48 29 hasn't fleshed out in a way that she thought was complete.
10:39:51 30
10:39:51 31 Do you say that there were changes or minor corrections
10:39:54 32 made to the statements?---No. It's highly unlikely that
10:39:59 33 there would have been any corrections made.
10:40:01 34
10:40:05 35 If you do record any of the things that she's saying about
10:40:09 36 the statements, what's happened to those records? Did you
10:40:17 37 keep those?---Generally what would happen, if, and assuming
10:40:26 38 the typing is me trying to keep up with the conversation
10:40:29 39 and taking some shorthand notes, they would be usually
10:40:32 40 forwarded to the handler, who would then use that to help
10:40:35 41 prepare his contact report.
10:40:36 42
10:40:37 43 Right. Would those notes be forwarded to the
10:40:46 44 investigators?---No.
10:40:48 45
10:40:50 46 What about the statements which she was told that she could
10:40:54 47 write all over, what about those documents, do you know

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10:40:58 1 what happened to those?---They would have been returned to,
10:41:01 2 I would think, Dale Flynn.
10:41:03 3
10:41:03 4 Right. Do you know whether she did make notes as she was
10:41:07 5 invited to do on the statements?---No.
10:41:10 6
10:41:13 7 She may have but you don't know?---That's right.
10:41:15 8
10:41:17 9 I mean, look, the reality is if she thought that there was
10:41:21 10 something wrong or something that should be added or
10:41:24 11 changed, she couldn't help herself, that was just her
10:41:28 12 nature, wasn't it?---Yep, that's - that is right.
10:41:32 13
10:41:32 14 That really was one of the reasons why she was given these
10:41:36 15 draft statements, to assist in making sure that the
10:41:38 16 statements were accurate?---Well as I said to you I think
10:41:47 17 the reason - there would have been a couple of reasons.
10:41:51 18 One of those would have been to make sure the statement was
10:41:54 19 accurate and truthful and the other would have been to make
10:41:57 20 sure that we didn't have to worry about any issues
10:42:00 21 concerning her getting compromised.
10:42:02 22
10:42:04 23 Right. The reality is no one knew she was an informer at
10:42:12 24 this stage. Certainly [REDACTED] didn't know?---No.
10:42:16 25
10:42:20 26 And if there - sorry, go on?---There is - we're in June,
10:42:27 27 aren't we, here?
10:42:28 28
10:42:28 29 Yes?---I can't recall when the - yeah, I think there was
10:42:32 30 already rumours spreading about her working with police or
10:42:36 31 assisting the police by this stage.
10:42:40 32
10:42:40 33 But there wouldn't have been anything in the statements
10:42:43 34 about that, surely?---Well again, I'd have to, I'd have to
10:42:51 35 look at all the material and have a listen to this
10:42:54 36 conversation in total.
10:42:55 37
10:42:55 38 All right. Then if we go over the page, to p.380, bottom
10:43:05 39 of - I'm talking about the transcript now at 0830. She's
10:43:18 40 talking about statement 7, quite obviously there are a
10:43:21 41 number of statements she's got. "Paragraph 4, this is
10:43:24 42 after [REDACTED] gets [REDACTED] on [REDACTED] 2003, we were led
10:43:29 43 to believe that [REDACTED] would pick up the cost of [REDACTED]
10:43:33 44 and [REDACTED]. It should be barristers." So that's
10:43:35 45 another, apparently a minor change that she's made and you
10:43:40 46 say, "I was led to believe what?" And she goes on, "I was
10:43:44 47 led to believe that [REDACTED] would pick up the cost for my

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10:43:48 1 [REDACTED] and [REDACTED]. This was not the case",
10:43:51 2 et cetera. You're asking her to repeat it. Are you then
10:43:55 3 typing down what she's saying, would that be fair to say
10:44:00 4 from that transcript there?---I wouldn't have been typing
10:44:06 5 down everything she said because, as you know, there's a
10:44:09 6 recording going.
10:44:10 7
10:44:11 8 Yes?---So it was an accurate account of what was being
10:44:15 9 said, it would have just been shorthand notes.
10:44:18 10
10:44:18 11 Again without going through all of the transcript, I
10:44:20 12 suggest to you that there's, there's discussion about some
10:44:24 13 of the matters in the statements and there's clarification
10:44:32 14 going on and then if we get to p.0397 - perhaps if we go
10:44:45 15 0396. Down the bottom Ms Gobbo says, "Yep, and the fact
10:44:54 16 that once again [REDACTED] tricks him and scams him into giving
10:45:00 17 him money for [REDACTED]. Anyway it's [REDACTED] and he's divided
10:45:04 18 it out". Mr Green says, "Yeah, I just wonder if the best
10:45:09 19 way to bring up some of these things is". Ms Gobbo says
10:45:13 20 something, Mr Green says, "Pardon?" "For me to do it when
10:45:15 21 I'm" and Mr Green says, "Yeah, after you've seen the
10:45:22 22 statements, the official, you know, you could go down and
10:45:26 23 say, 'Oh look'." And then there's further discussion and
10:45:29 24 he says, "That's sort of the whole reason we wanted you to
10:45:33 25 see them ... I suppose is to like, say for example what
10:45:38 26 you, what you've mentioned there, it's not really, in some
10:45:42 27 of the earlier ones there's not a lot of talk about the
10:45:45 28 pressure and the harassment that he was under". Over the
10:45:48 29 page, "Your advice to him could be or maybe it would be ...
10:45:53 30 something harassment and pressure. Remember how that
10:45:55 31 happened, that will, that will help with". And she says,
10:45:58 32 "Yeah, I don't want to go too much into that ... remember
10:46:03 33 when this happened, remember when that happened, because I
10:46:07 34 don't want him to suddenly start thinking, 'Oh hang on,
10:46:10 35 well yeah, she knew that, she knew that, she knew that'."
10:46:13 36 Mr Green says, "Oh yeah, but you would be saying to him
10:46:16 37 because it will look better in the plea". What it appears
10:46:20 38 to be is that trying to work out, Ms Gobbo having read the
10:46:25 39 statements, formed the view that they could be changed or
10:46:28 40 they could be added to in certain ways, how that then can
10:46:34 41 be translated to [REDACTED] Do you accept that
10:46:38 42 proposition?---I don't understand your proposition.
10:46:43 43
10:46:43 44 What I'm suggesting to you is that it appears to be the
10:46:46 45 case, certainly as far as what Mr Green is saying, there
10:46:50 46 seems to be a desire for [REDACTED] to in some way be
10:47:01 47 influenced by Ms Gobbo in what he says, either in his

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10:47:06 1 evidence or in his statements when they're finalised?---No,
10:47:12 2 well I don't agree with that.

10:47:14 3
10:47:14 4 All right. On the face of it that's what it appears to
10:47:20 5 say, "That's the whole reason we wanted you to see them",
10:47:23 6 do you see where he says that?---I do, but - she wouldn't
10:47:29 7 have been shown those statements by us to in any way change
10:47:37 8 his evidence. It would have been simply to make sure that
10:47:39 9 it was accurate and truthful and that there was no, as I
10:47:42 10 said, no compromise issues.

10:47:44 11
10:47:45 12 Accurate and truthful as far as who was concerned though,
10:47:48 13 Mr White? These aren't Ms Gobbo's statements, they're
10:47:52 14 [REDACTED] statements?---Well, that's right, they are, but
10:48:02 15 - it would have still been important to make sure that
10:48:06 16 those statements were truthful.

10:48:07 17
10:48:07 18 That may well be the correct - that may well be right, but
10:48:11 19 the point I'm making is this, it's for [REDACTED] to make
10:48:15 20 his statements, truthful or otherwise, and to be dealt with
10:48:19 21 on the basis of what he says in his statements. It's not
10:48:23 22 for the police in a sort of a private and a covert way to
10:48:30 23 provide the statements to someone else to ensure that
10:48:32 24 they're accurate, do you accept that proposition?---Well, I
10:48:38 25 do as a general proposition but I don't - I don't believe
10:48:45 26 these - there's nothing you've shown me to this point that
10:48:50 27 suggests she's changed these statements.

10:48:52 28
10:48:53 29 That may well be the case, but what I'm really getting at
10:48:56 30 is what's the point? What do you do it? Why do you
10:49:00 31 involve Ms Gobbo? Firstly, she has no business acting for
10:49:03 32 him, advising him, as you accept, don't you,
10:49:08 33 Mr White?---Yes.

10:49:08 34
10:49:08 35 And she has got no business adding to, altering, changing,
10:49:13 36 influencing him in anything that he says in his statements,
10:49:15 37 do you accept that proposition?---Yes.

10:49:21 38
10:49:23 39 Right. If the purpose of providing her with the statements
10:49:38 40 was to ensure that there was nothing about them which in
10:49:42 41 any way compromised her, why give her statements which
10:49:44 42 hadn't been proofread, which were very much, you know, sort
10:49:48 43 of a draft form, why do that?---Well I can't tell you at
10:49:57 44 this point in time.

10:49:59 45
10:49:59 46 Ultimately you were given these statements by Mr O'Brien,
10:50:04 47 by the investigators to give to her, is that right, for

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10:50:09 1 whatever purpose Mr O'Brien had?---I don't know whether
10:50:14 2 Mr O'Brien gave me or the handlers those statements or
10:50:19 3 whether Mr Flynn gave them to us.
10:50:22 4
10:50:22 5 If we go to your diary of 8 June 2006. Have you got your
10:50:30 6 diary there?---Yes.
10:50:32 7
10:50:33 8 What it says is there are a number of issues discussed but
10:50:37 9 there was a meeting between JOB, Flynn, Rowe, presumably
10:50:43 10 yourself because you've taken notes about it at Purana,
10:50:46 11 there were discussions about **Mr Bickley** arrest on 13th of
10:50:54 12 the 6th, or what was planned for 06. Do you see that?
10:51:01 13 Have you got your diary there?---I'm sorry, I haven't got
10:51:04 14 that.
10:51:05 15
10:51:05 16 And over the page at 212 of your diary it says - have a
10:51:14 17 look at p.212 of your diary?---Yes.
10:51:32 18
10:51:33 19 **[REDACTED]** statement is ready for perusal by Ms Gobbo
10:51:40 20 tomorrow. Also prepared to show Ms Gobbo LD draft
10:51:44 21 transcripts." So she's also been given draft transcripts
10:51:50 22 of what clearly are listening device materials?---I'm not
10:51:59 23 sure whether she was actually shown those but certainly the
10:52:02 24 investigators were prepared to show them to her.
10:52:04 25
10:52:04 26 I suggest she was and she comments on them. And ultimately
10:52:11 27 you're clearly recording information that she's providing
10:52:15 28 and then if you go to p.0416.
29
10:52:25 30 COMMISSIONER: In the transcripts?
10:52:28 31
10:52:29 32 MR WINNEKE: Of the transcript?---Yes.
10:52:30 33
10:52:33 34 There's a concern that you might have inadvertently deleted
10:52:39 35 that which had been recorded because you say, "Oh fuck".
10:52:44 36 Mr Green says, "Have you deleted all that?" You said, "No,
10:52:48 37 I saved. That's all right I've saved Nicola's stuff but I
10:52:53 38 think I deleted something else". Effectively you have been
10:52:56 39 recording what she's been saying and you've saved it and
10:53:00 40 those, those notes are recorded, do you see?---Yeah, that
10:53:06 41 seems to be the case, although I must have been working on
10:53:11 42 something else if I've deleted something else.
10:53:13 43
10:53:13 44 Yeah. Where would they be stored, those notes?---They'd
10:53:20 45 be, as I said, I would have probably transferred them over
10:53:24 46 to the handler to help with his contact report and then
10:53:30 47 they would probably exist on our SDU drive.

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WHITE RE-XN - IN CAMERA

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10:53:34 1
10:53:34 2 So you think they may exist somewhere?---I think so.
10:53:38 3
10:53:39 4 In any event, that's what occurs on 9 June and I suppose
10:53:47 5 the accuracy or otherwise of it can be borne out by what's
10:53:52 6 in the transcript or on the tape, perhaps more accurately,
10:53:56 7 do you agree with that?---Yes, as you know we've had
10:53:59 8 discussions about the accuracy of these transcripts.
10:54:02 9
10:54:02 10 I accept that. The most accurate record is what you can
10:54:05 11 hear?---Yes.
10:54:06 12
10:54:09 13 Mr White, that's all I've got for you and thank you very
10:54:13 14 much for your patience and thanks for coming along this
10:54:16 15 morning.
10:54:16 16
10:54:16 17 COMMISSIONER: All right?---Thanks Mr Winneke.
10:54:23 18
10:54:24 19 Thanks Mr White, you're free to go. I have to say there's
10:54:27 20 always a chance you may be recalled but at this stage it's
10:54:31 21 not intended?---Thank you.
10:54:32 22
10:54:33 23 Hopefully the long efforts that you've put in will mean
10:54:36 24 that some of the other people who were in your team at the
10:54:39 25 time won't have to go through such a long process.
26
27 MR WINNEKE: Yes, that's correct, Commissioner.
28
10:54:43 29 COMMISSIONER: Yes.
30
10:54:48 31 MR WINNEKE: It's an example of taking one for the team.
32
10:54:43 33 WITNESS: That would be much appreciated, thank you.
10:54:47 34
35 COMMISSIONER: Taking one for the team, was it?
36
37 MR WINNEKE: Yes.
38
39 COMMISSIONER: Thanks Mr White.
40
41 <(THE WITNESS WITHDREW)
42
10:54:52 43 COMMISSIONER: All right, we'll go back into open hearing
10:54:55 44 for the moment to deal with the housekeeping matters that
10:55:00 45 we talked about yesterday, if you're in a position to?
10:55:03 46
10:55:03 47 MR HOLT: I am Commissioner.

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WHITE RE-XN - IN CAMERA

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10:55:04 1
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COMMISSIONER: Yes, thanks.

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1 PROCEEDINGS IN CAMERA:

2
11:27:48 3 MS TITTENSOR: Thank you, Commissioner. Mr O'Brien, I just
11:27:49 4 wanted to ask you about two things arising from earlier
11:27:52 5 things yesterday. You recall a notation about Mr Overland
11:27:58 6 approving of the running of a second diary at some point in
11:28:02 7 time?---I don't know if it was approved or not. There was
11:28:04 8 a discussion about it.

9
11:28:07 10 I stand to be corrected but the notation indicated that
11:28:09 11 he'd approved the running of a second diary?---All right.
11:28:12 12 Well if it says approval, it's approved, but it was never
11:28:16 13 done.

14
11:28:16 15 That was never done. Do you know when the decision was
11:28:22 16 changed and why?---No, I think it was just, it would have
11:28:26 17 been impractical to do that. I mean I'd just run the one
11:28:29 18 set of diaries and continued to do that and kept them with
11:28:36 19 me.

20
11:28:36 21 Do you know whose idea it was in the first place?---It was
11:28:40 22 probably something discussed in the early days, probably
11:28:43 23 with the DSU.

24
11:28:44 25 Were they involved in that meeting when this discussion
11:28:47 26 took place or it was something that was - - - ?---I think
11:28:50 27 it was something that - perhaps that meeting with Mr Purton
11:28:52 28 earlier on.

29
11:28:56 30 In terms of your own books, we've seen your diaries. Did
11:29:01 31 you used to keep day books at this stage?---No.

32
11:29:07 33 You'd stopped when you rose up the ranks, that was
11:29:11 34 something that you didn't do?---It was something I wouldn't
11:29:13 35 have had time to do it, basically, with the amount of
11:29:17 36 material.

37
11:29:22 38 I think I was asking you at the end of the day yesterday, I
11:29:27 39 think I had the ICRs up there and on p.192, and I was
11:29:36 40 asking you about a phone that [REDACTED] had given for her
11:29:46 41 to pass on to Mr Bickley [REDACTED] That's correct, yes.

42
11:29:48 43 Do you recall that? There was a comment in the ICRs about
11:29:55 44 not using that material or not submitting those numbers in
11:30:05 45 case of potential compromise but ultimately by the end of
11:30:08 46 the month it seems that that was done in an affidavit; is
11:30:19 47 that right?---That's what it appears to be, this document,

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11:30:23 1 yes.
2
11:30:24 3 Do you recall in relation to that phone, as it indicates
11:30:27 4 there - it might not actually indicate there. But what
11:30:33 5 seems to have occurred is that once Ms Gobbo got the phone
11:30:36 6 from [REDACTED] that phone had stored on it a number for
11:30:42 7 [REDACTED] so that when Mr Bickley [REDACTED] got the phone he was
11:30:47 8 able to ring that number and communicate with [REDACTED]
11:30:53 9 Ms Gobbo, prior to handing it to Mr Bickley [REDACTED] had texted
11:30:58 10 herself from the number so that she would have the number
11:31:01 11 of the phone that was being given to Mr Bickley [REDACTED] and then
11:31:05 12 deleted the text that she'd sent from the phone, do you
11:31:08 13 understand what I'm saying?---I understand but I've no
11:31:12 14 knowledge of that.
15
11:31:13 16 Do you recall that there was an instruction given that when
11:31:18 17 CCRs were to be obtained for the phone to demonstrate the
11:31:24 18 use that was made of that phone, that the day on which
11:31:26 19 Ms Gobbo had texted herself was not to be requested, do you
11:31:33 20 recall that?---No, I don't.
21
11:31:39 22 In terms of the process for making affidavits to seek
11:31:52 23 warrants, can you explain what that process
11:31:58 24 was?---Generally done by the sergeants. So it'd be a
11:32:09 25 compilation of material. Generally an affidavit would
11:32:11 26 start at the - it would be like a live document, so it
11:32:15 27 would just be added to as it went along. The affidavit
11:32:17 28 would grow basically.
29
11:32:19 30 As time went on, if we're using this process that was going
11:32:23 31 on here in relation to [REDACTED] the information that was
11:32:27 32 coming through to you was being given to a member of your
11:32:31 33 crew so that it could be included in that affidavit?---They
11:32:36 34 would do the affidavit, yeah, on whatever the available
11:32:39 35 material was and then that document would become a growing
11:32:42 36 document. So as the evidence or intelligence grew, so did
11:32:47 37 the affidavit. So you might start off with an affidavit of
11:32:52 38 five or six pages at the start of an investigation. It
11:32:55 39 might grow to something of 56 pages later on.
40
11:32:58 41 That affidavit would include the information that was
11:33:00 42 coming through from Ms Gobbo?---Yes, it would.
43
11:33:03 44 As well as other information of course that was learnt
11:33:05 45 during the course of the investigation?---Yes, in part, and
11:33:08 46 other investigative processes.
47

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O'BRIEN XXN - IN CAMERA

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11:33:09 1 And it would identify within the affidavit when it was
11:33:13 2 her?---Yes, generally I'd imagine it would have information
11:33:16 3 from 3838 or registered human source 3838, whatever.
4
11:33:22 5 And that information being prepared by your people, because
11:33:27 6 you were the single or the focal point of contact, would
11:33:30 7 come from you to them?---The information?
8
11:33:33 9 Yes?---Not all the information. Such information as I
11:33:37 10 thought was relevant and that I provided to them.
11
11:33:40 12 The information that ultimately is contained in the
11:33:42 13 affidavit that emanated from Ms Gobbo would have come from
11:33:49 14 you to them?---No, not necessarily. It may have come from
11:33:52 15 the tactical intelligence officer.
16
11:33:54 17 They would provide information that had come from Ms Gobbo
11:33:59 18 as well?---I'd imagine so, yes.
19
11:34:01 20 Did you understand that intelligence was being supplied
11:34:03 21 from the SDU to the tactical information - - - ?---Tactical
11:34:11 22 intelligence analysts, yes.
23
11:34:12 24 They were also receiving direct reports from the SDU?---No.
11:34:18 25 As I think I outlined before, the hot debrief or whatever
11:34:21 26 it was that I was getting was the immediate information
11:34:24 27 which was provided to me on the basis if there was any
11:34:27 28 necessary to take action around covert support services or
11:34:33 29 whatever, would come to me. But the information that the
11:34:36 30 detectives would rely upon would go through the analytical
11:34:39 31 process and go to them. So unless it was an urgent thing
11:34:43 32 or a life and death situation - - -
33
11:34:45 34 You would get your daily, multiple daily hot
11:34:50 35 debriefs?---Correct.
36
11:34:51 37 The more sanitised version would go into an information
11:34:55 38 report to the tactical information - - - ?---Sit on the
11:34:59 39 database I think, it was called ISIS.
40
11:35:03 41 The affidavits are prepared, partly on the sanitised
11:35:07 42 information and partly on the other information that's been
11:35:10 43 provided to you?---Yes.
44
11:35:12 45 What happens to them then?---I believe they go to the
11:35:16 46 Special Projects Unit.
47

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O'BRIEN XXN - IN CAMERA

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11:35:17 1 What's the reason for that?---Because they prepare the
11:35:20 2 affidavit on that information.
3
11:35:24 4 So essentially is it the body of information that's to be
11:35:28 5 inserted into the affidavit that's provided to the
11:35:33 6 SPU?---That's correct. Then if they've got any - if they
11:35:36 7 say it's deficient in any manner they would send it back to
11:35:40 8 the investigator.
9
11:35:40 10 From the SPU where does it go to from there?---I would
11:35:44 11 imagine it would be the Senior Sergeant of the Special
11:35:48 12 Projects Unit would take it up to the court to get a
11:35:49 13 warrant issued or apply for a warrant.
14
11:35:51 15 Was it the case where Ms Gobbo was involved that the
11:35:55 16 affidavits would go back to the SDU for checking against
11:35:59 17 the information?---Not to my knowledge.
18
11:36:05 19 Have you given some evidence in the past to that effect,
11:36:09 20 that those affidavits would go to the SDU to check against
11:36:14 21 original information for accuracy?---I don't think so. I
11:36:18 22 might be wrong, but.
23
11:36:21 24 Would it have been - I won't take that any further at this
11:36:25 25 stage. I might have a conversation about that later,
11:36:31 26 Commissioner.
27
11:36:33 28 MR HOLT: I'm aware of the issue, I'm sure we can resolve
11:36:37 29 it in a way that allows it to be done.
30
11:36:39 31 COMMISSIONER: Thank you.
32
11:36:43 32 MS TITTENSOR: If we can go to p.193 of the ICRs.
11:36:44 33
34
11:37:12 35 COMMISSIONER: 1779 I think is the last number, yes, VicPol
11:37:18 36 number.
37
11:37:20 38 MS TITTENSOR: You'll see there under the time of 7.44 that
11:37:25 39 at that stage Ms Gobbo was advised not to hand the phone
11:37:28 40 over to Mr Bickley do you see that? This is 17 March I
11:37:42 41 might say for the transcript?---I'm just trying to read
11:37:47 42 through the document.
43
11:37:50 44 Yes?---Yes, that's correct.
45
11:37:58 46 Then at 8.30 there's a management issue recorded. There's
11:38:03 47 reference there to the handlers Smith and Green and they

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11:38:16 1 meet with you and discuss the information in relation to
11:38:17 2 the day before, re the phone numbers?---Yes.
3
11:38:20 4 There's been no hit on the Purana search of the system.
11:38:24 5 The numbers at that time are not to be given to Operation
11:38:30 6 Purana and I assume that that's for the purpose of
11:38:33 7 investigators using them due to likely compromise, and that
11:38:36 8 the SDU will obtain the subscribers and make enquiries in
11:38:43 9 relation to the usage and it's confirmed with you that if
11:38:46 10 those numbers are ever used, the number for Mr Bickley will
11:38:51 11 not be CCRed for the day before, do you see that?---Yes, I
11:38:56 12 do.
13
11:38:56 14 Do you understand the point that that will be to avoid
11:39:00 15 Ms Gobbo's phone number coming up in that subscriber
11:39:03 16 check?---Yes, obviously that's what it is.
17
11:39:09 18 If we were to look at your diary entry for that day, or for
11:39:14 19 that time?---Yes. Sorry, wrong year.
20
11:39:46 21 I think it says p.95 up the top?---Yes.
22
11:40:00 23 Does your diary entry around that time read that you spoke
11:40:06 24 to Smith and Green re registered human source
11:40:13 25 intelligence?---That's correct.
26
11:40:15 27 So it doesn't include the detail of what that was; is that
11:40:19 28 right?---No.
29
11:40:28 30 If we go back to the ICR you'll see at 9.54 Ms Gobbo is
11:40:50 31 asking if she should see Mr Bickley and hand over the
11:40:53 32 phone and by that stage she's told that yes, she should.
11:41:00 33 Do you see that?---Yes.
34
11:41:05 35 If you look at your diary, go back to your diary again,
11:41:08 36 you'll see it indicated in your diary that at 9.55 you'd
11:41:15 37 spoken to Smith and Green at the office re intelligence.
11:41:37 38 That [REDACTED] had organised for the phone for Mr Bickley
11:41:40 39 and wants the registered human source to pass it on at
11:41:45 40 1.30 pm that day?---That's correct.
41
11:41:49 42 Then it contains, goes on to contain various information,
11:41:53 43 other information about [REDACTED] and Mr Bickley and
11:41:55 44 others, do you see that?---Yes.
45
11:42:00 46 Back on the ICR. It's indicated at 1.58 that she reports
11:42:07 47 seeing Mr Bickley and handing the phone over and then she

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O'BRIEN XXN - IN CAMERA

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11:42:22 1 gives some details about the type of car that he was
11:42:24 2 driving, that he was keen to see Mr Mokbel, Tony Mokbel,
11:42:28 3 because he was owed money. She reports on having received
11:42:31 4 [REDACTED] from [REDACTED] for the [REDACTED] and she was
11:42:35 5 told it was okay to put it into a trust account to draw a
11:42:38 6 cheque?---Yes, that's what it says, yes.
7
11:42:45 8 Was there any concern expressed at all about Ms Gobbo
11:42:50 9 potentially involving herself in the offending by passing
11:42:58 10 over the phone to Mr Bickley [REDACTED] in those circumstances, was
11:43:02 11 that discussed at all between yourself and the SDU?---No.
12
11:43:05 13 Was there any concern at all that those kinds of matters
11:43:08 14 might come up in later statements?---No.
15
11:43:10 16 If either [REDACTED] or [REDACTED] decided to cooperate
11:43:14 17 with the police?---It's not something I considered.
18
11:43:19 19 Did you keep in the forefront of your mind when you're
11:43:23 20 dealing with cases that involve informers what might happen
11:43:27 21 into the future in terms of court proceedings? That's
11:43:31 22 something that you necessarily would have had to consider
11:43:33 23 when you're dealing with informers; is that right?---Well
11:43:36 24 not a day-to-day basis.
25
11:43:40 26 In a case like this where you've got an informer who's a
11:43:44 27 barrister who's handing phones to be used in the drug
11:43:49 28 trade, did you think this might be a bit of an issue if
11:43:53 29 these two people, or one of these two people do cooperate
11:43:58 30 and she ends up in a statement?---No, I didn't contemplate
11:44:01 31 that.
32
11:44:03 33 Was there any contemplation at all that she might herself
11:44:08 34 be somehow caught up in inciting or encouraging criminal
11:44:14 35 activities of the people that she was dealing with?---No.
11:44:18 36 From this, I mean, she was acting as a go-between handing
11:44:23 37 over a phone. I don't see that as being a criminal offence
11:44:26 38 of itself.
39
11:44:27 40 If you're handing over a phone in circumstances where you
11:44:30 41 know it's going to be used for illegal purposes, like the
11:44:35 42 drug trade, do you see that as acting criminally at
11:44:42 43 all?---In limited circumstances. It might be the same as
11:44:44 44 engaging in a conversation with these people. All the
11:44:47 45 conversations she had were about criminal offending, people
11:44:51 46 moving large amounts of [REDACTED], [REDACTED],
11:44:56 47 things of that nature.

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O'BRIEN XXN - IN CAMERA

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1
11:44:57 2 And in this case do you think it might have been a problem
11:45:03 3 if she was encouraging or inciting that conduct on their
11:45:09 4 part?---I don't believe she was inciting it or encouraging
11:45:13 5 it.
6
11:45:14 7 Or assisting in their drug trade?---In a limited way she
11:45:19 8 was providing a source of communication between two crooks.
11:45:23 9 What they did with it was up to them, not her really. I
11:45:27 10 mean if she was party to a conversation where it incited
11:45:30 11 something that might be a different matter. But I think
11:45:32 12 here she was merely providing a communication source, which
11:45:36 13 we were aware of, which assisted us no doubt.
14
11:45:40 15 She was obviously having conversations with a number of
11:45:42 16 these people about the conduct that they were engaging in,
11:45:46 17 she's talking about money, she's potentially talking about
11:45:49 18 holding money for people, she's getting information in
11:45:54 19 relation to [REDACTED] and [REDACTED]. Was there any
11:45:57 20 contemplation given at all that she might be involved
11:46:01 21 herself or seen to be encouraging that conduct on the part
11:46:06 22 of the people that she was dealing with, Mr Bickley [REDACTED] and
11:46:11 23 [REDACTED] who had a hearing coming up?---I didn't think
11:46:15 24 that. I thought she was picking up information that she
11:46:18 25 picked up in the normal course of her socialisation with a
11:46:22 26 team of crooks.
27
11:46:32 28 On the same date, or during this period of time Ms Gobbo
11:46:36 29 had been representing Mr Mokbel in his trial?---I think
11:46:42 30 this was about two days before he ran away, yes.
31
11:46:46 32 Clearly that was a trial that you had some keen interest
11:46:49 33 in?---Not really.
34
11:46:52 35 You weren't interested in the outcome as to whether
11:46:56 36 Mr Mokbel might be in gaol for the foreseeable
11:47:02 37 future?---No, that didn't really interest me. That was a
11:47:04 38 matter in the past. I was concerned about the future and I
11:47:06 39 was concerned about the whole organisation, not just Tony
11:47:09 40 Mokbel.
41
11:47:11 42 You would have been interested to know or to understand
11:47:14 43 that he might be locked up very shortly, wouldn't you?---He
11:47:19 44 could have been locked up, that wouldn't have stopped me.
45
11:47:22 46 Part of this whole thing was about getting Tony Mokbel, was
11:47:26 47 it not?---That's correct.

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O'BRIEN XXN - IN CAMERA

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1
11:47:28 2 And if he's going to be locked up in a few days' time that
11:47:32 3 would be something of interest to you?---Well it would have
11:47:36 4 been of interest. I didn't think it was a few days' time,
11:47:40 5 I think he was out on bail at the time.
6
11:47:42 7 He was out on bail and his trial was drawing to a close at
11:47:46 8 about this time?---Right.
9
11:47:47 10 That would have been something you would have been
11:47:49 11 interested in, wouldn't it?---Well I certainly was
11:47:52 12 interested in the outcome but, as I say, it wouldn't have
11:47:54 13 stopped my investigation.
14
11:47:56 15 No. You were after him and you were after the rest of the
11:47:59 16 cartel, you wanted to shut the whole thing down?---That's
11:48:03 17 correct.
18
11:48:10 19 If you go to p.194. This is 17 March. After court
11:48:30 20 Ms Gobbo speaks to her handlers. She says to her handlers
11:48:35 21 that she has to see Tony Mokbel this weekend as the judge
11:48:40 22 said he will be in custody as of Tuesday when the jury goes
11:48:43 23 out, Mokbel "Has told the human source at least twice not
11:48:48 24 to ring him this weekend, which is very strange. Because
11:48:52 25 of this the human source is sure he's up to some unknown
11:48:56 26 criminal activity this weekend"?---Yes.
27
11:48:58 28 The next line indicates, "Advised O'Brien, Operation
11:49:03 29 Purana. Cancelling SCSU". Do you know what that - what
11:49:10 30 does SCSU mean?---I can only imagine it's the State Crime
11:49:16 31 Surveillance Unit.
32
11:49:18 33 Why would you be cancelling SCSU at that time?---I've got
11:49:22 34 no idea and I didn't receive all that information in any
11:49:27 35 event. I got some information I think that not to ring
11:49:31 36 him, that he had something on for the weekend or something.
11:49:35 37 There's a diary note there in relation to it.
38
11:49:38 39 All right. If we go to your diary entry for that day, the
11:49:44 40 17th. This is after court so it'll be - I think there's a
11:49:49 41 diary entry - up until that time had Mr Mokbel been under
11:50:24 42 surveillance?---No, not as far as I know.
43
11:50:26 44 Do you know who the surveillance was then that you were
11:50:30 45 cancelling?---As I say, I've got no - I don't believe I
11:50:35 46 have any reference to it in the diary and I don't know why
11:50:37 47 it's on there.

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O'BRIEN XXN - IN CAMERA

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1
11:50:40 2 In your diary you've got an entry at about 5 o'clock, is
11:50:45 3 that the entry you were talking about?---Yeah, that's
11:50:50 4 right. "Tony Mokbel up to something. Advise registered
11:50:54 5 human source 'don't ring me on the weekend, I'll ring you
11:50:56 6 if need be'."
7
11:50:59 8 It's apparent that you received the information that
11:51:04 9 Ms Gobbo was conveying that she believed that Tony Mokbel
11:51:07 10 was up to something over the weekend?---That's correct.
11
11:51:12 12 And that he'd told her, "Don't ring me, I'll ring
11:51:16 13 you"?---Yes.
14
11:51:18 15 Was there any consideration given that he might need to be
11:51:23 16 under surveillance over that weekend?---If the significance
11:51:25 17 of that had dawned on me he'd have been under surveillance
11:51:29 18 I can tell you that. In fact I only realised the
11:51:33 19 importance of that entry when I was reviewing it for this
11:51:35 20 process, and I thought, "Hello".
21
11:51:45 22 The following day, on 18 March 2006, Ms Gobbo had her
11:51:51 23 meeting with Mr Bateson. You'll recall yesterday I took
11:51:55 24 you through some material about Ms Gobbo being very upset
11:51:59 25 about the contents of the [REDACTED] statement?---Yes.
26
11:52:04 27 It seems they met at a café in South Melbourne, that
11:52:10 28 meeting having been arranged through the SDU in
11:52:13 29 communications with you in the days before, and that the
11:52:18 30 meeting went for around about an hour?---Yes.
31
11:52:34 32 I think your diary summary, or your diary entry - you've
11:52:38 33 got an entry then at 17:20, do you see that, at the top of
11:52:58 34 p.97 I think in your written diary?---Oh right. That's
11:53:06 35 right.
36
11:53:06 37 You've returned a call to Detective Sergeant Bateson. He
11:53:11 38 advised that he'd met with 3838 "re smooth things
11:53:15 39 over"?---Yes. "All correct to submit information report re
11:53:23 40 same."
41
11:53:25 42 "To submit information report re same"?---Yep.
43
11:53:30 44 Do you recall now whether there was an information report
11:53:34 45 submitted as a result of that?---No.
46
11:53:38 47 Do you know what the detail was that needed to be put into

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11:53:42 1 an information report?---Well the fact that he'd had a
11:53:45 2 meeting with a source, he'd have to cover off on how that
11:53:51 3 was done by diary entry and an information report.
4
11:53:56 5 Mr Bateson's got a notation in his diary indicating that he
11:54:00 6 digitally recorded that conversation with Ms Gobbo. Would
11:54:04 7 that have been upon instruction from you?---No, that would
11:54:08 8 be standard procedure I'd imagine.
9
11:54:11 10 Did you ever receive that tape from him or listen to that
11:54:14 11 tape?---No, I did not.
12
11:54:17 13 Do you know where that tape would have been stored?---When
11:54:23 14 I started at Purana one of the things I instigated was a
11:54:30 15 recording process for tapes of that nature so that where
11:54:34 16 you had meetings or you went out to the gaol or you had
11:54:37 17 discussions, that that was recorded in manual register and
11:54:41 18 that was put into a little small four drawer filing
11:54:44 19 cabinet. So generally the original recording was burnt on
11:54:48 20 a CD to preserve it and then they were both put in a sealed
11:54:52 21 bag and placed in that four drawer filing cabinet, which
11:54:56 22 was only about 350 mm wide.
23
11:55:02 24 That's where you would have expected it to be
11:55:07 25 stored?---That's correct.
26
11:55:07 27 It contains pretty sensitive material, it's an investigator
11:55:10 28 speaking to a human source?---Yes.
29
11:55:12 30 In this case everyone accepts that Ms Gobbo's life would be
11:55:15 31 in jeopardy if it became known that she was a
11:55:19 32 source?---That's correct.
33
11:55:22 34 Do you understand that that tape has gone missing?---No, I
11:55:25 35 don't.
36
11:55:26 37 Do you know that?---No.
38
11:55:31 39 Do you know if that tape might have been put in the same
11:55:35 40 location as the Mansell and Rowe tapes?---I'm not sure.
41
11:55:38 42 When you say - - - ?---Well the Mansell and Rowe tapes as
11:55:42 43 far as I'm concerned should have ended up with the SDU.
11:55:44 44 Whether that was through Mansell or through me, I'm unsure.
11:55:49 45 But again, the same with this tape, more than likely should
11:55:55 46 have sat with the Source Development Unit.
47

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11:55:57 1 Were there any other Purana recordings of Ms Gobbo that
11:56:02 2 took place?---Not that I'm aware of.
3
11:56:07 4 Mr Flynn met Ms Gobbo on a number of occasions, didn't
11:56:12 5 he?---I'm not sure.
6
11:56:14 7 Did you ever instruct him to record his conversations with
11:56:17 8 her?---I think there was - there may have been a recording
11:56:23 9 when we attended her office on one occasion but I'm not 100
11:56:27 10 per cent sure on that.
11
11:56:28 12 Was that when the warrant, the summons was served upon
11:56:32 13 her?---Yes.
14
11:56:33 15 And that was a summons to give evidence in a compulsory
11:56:36 16 hearing?---I believe so, yes.
17
11:56:39 18 What would be the purpose of recording that
11:56:41 19 conversation?---Again, you're meeting with a registered
11:56:48 20 source.
21
11:56:48 22 In that context, when you were serving that compulsory
11:56:53 23 summons, was she regarded then as a source as you're
11:56:55 24 meeting her in that context?---No, but we knew she was a
11:57:00 25 source.
26
11:57:00 27 Did you record it in your diary as serving a summons on
11:57:06 28 3838 or would you have recorded in your diary a serving a
11:57:11 29 summons on Ms Gobbo?---It could be either. I'd have to
11:57:14 30 check the diary entry.
31
11:57:15 32 It's the case, isn't it, that in your diary whenever, for
11:57:20 33 example, on this date when you've - or at least you've
11:57:28 34 recorded Mr Bateson's meeting with her as recording a
11:57:32 35 meeting with 3838?---Correct.
36
11:57:37 37 But on occasion when you would have contact with her
11:57:41 38 otherwise, and it might be normal to do so, you'd record
11:57:45 39 her as Nicola Gobbo?---Yeah, I've demoted her and called
11:57:50 40 solicitor Gobbo on a few occasions, barrister on other
11:57:53 41 occasions.
42
11:57:53 43 Was that intentional on your part?---No, it wasn't. It was
11:57:56 44 just a mix up in ranks.
45
11:58:08 46 I think our instructing solicitors might have a bit to say
11:58:11 47 about who's the boss?---See me at the break.

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1
11:58:17 2 COMMISSIONER: I think equal but different might be the
11:58:21 3 more diplomatic way?---Thanks Commissioner.
11:58:24 4
11:58:29 5 MS TITTENSOR: Ms Gobbo's got some notes in relation to
11:58:31 6 this matter and I won't take you right through them, but
11:58:33 7 she in her notes indicates that she spoke to Mr Bateson
11:58:37 8 about getting a 465 warrant on her office before taking a
11:58:43 9 statement from her in relation to the [REDACTED] matter. Do
11:58:49 10 you recall anything about that?---No.
11
11:58:52 12 About the possibility that Ms Gobbo might become a witness
11:58:54 13 in relation to the [REDACTED] matter?---No, I don't.
14
11:59:00 15 Do you recall that there was in fact a warrant executed
11:59:02 16 upon her office to obtain some notes that she'd made in
11:59:07 17 relation to her visits to [REDACTED] back in 2003?---No, I
11:59:14 18 don't. As I say, Bateson had the running of this
11:59:17 19 investigation. My part in it was - - -
20
11:59:21 21 Presumably you had some interest in it, he was reporting to
11:59:24 22 you what was going on?---No, he wasn't regularly reporting
11:59:27 23 to me what was going on. It was more reporting to - these
11:59:34 24 investigations sat under Gavan Ryan and as such Gavan had a
11:59:39 25 close relationship with Stuart Bateson and they were
11:59:41 26 running those investigations as far as I was concerned.
27
11:59:44 28 So you had complete disinterest in it?---No, I didn't have
11:59:47 29 disinterest in it. As I say, I stepped into it without
11:59:52 30 having much knowledge of these earlier matters.
31
11:59:55 32 If we look at a reporting to her to the handlers at this
11:59:59 33 stage. She's telling the handlers initially she's got no
12:00:02 34 memory of even having seen [REDACTED] back in 2003 because
12:00:07 35 she had a stroke and she's got no memory. She tells them
12:00:13 36 initially that she can't find any notes, in fact she'd
12:00:17 37 visited him twice on remand. She later says that she has
12:00:20 38 found some notes referring to [REDACTED] and [REDACTED]
12:00:26 39 but in a completely different context. This is what she's
12:00:30 40 telling the handlers. Mr Bateson said in his - just to
12:00:38 41 fill you in on what was going on, it seems as though out of
12:00:43 42 all of that there was a warrant executed in relation to
12:00:46 43 getting those notes from her?---Yeah, I have no
12:00:49 44 recollection of that.
45
12:00:50 46 Mr Bateson says in his diary chronology that at that
12:00:55 47 meeting he also told Ms Gobbo that Purana would be pursuing

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12:00:58 1 Mr Mokbel, presumably because of what was said about his
12:01:02 2 involvement in those matters?---Right.
3
12:01:06 4 That's on the afternoon of Saturday 18 March 2006 and I
12:01:14 5 guess we know that two days later he failed to appear for
12:01:17 6 court?---Right.
7
12:01:22 8 The following day the prison records indicate that Ms Gobbo
12:01:27 9 went out to visit [REDACTED] and I think we've been going
12:01:34 10 through some material in relation to what was going on in
12:01:37 11 relation to [REDACTED] you having been out to the prison a
12:01:41 12 number of times having discussed with [REDACTED] his
12:01:44 13 possible cooperation, you recall those matters
12:01:48 14 yesterday?---Yes, I recall that.
15
12:01:52 16 And who he might have representing him and so forth?---Yes.
17
12:01:57 18 On [REDACTED] 2006 Ms Gobbo's gone out to visit [REDACTED] at
12:02:04 19 the prison. Her notes indicate that she's had a conference
12:02:11 20 with him and that she's spoken to him about various
12:02:16 21 matters, including [REDACTED] and [REDACTED] and speaking to
12:02:22 22 the police and so forth. If we can go to the ICR at 196,
12:02:29 23 please. We can see, if you go down, just above the 18:35,
12:02:46 24 the time stamp of the conversation above it is 16:41, but
12:02:50 25 you'll see down the bottom of that entry, "Human source saw
12:02:56 26 [REDACTED] yesterday and 99 per cent likely to make
12:02:59 27 statement to assist Operation Purana"?---Right.
28
12:03:01 29 See that?---Yes.
30
12:03:11 31 The following day, that's the [REDACTED] 2006, this is
12:03:17 32 the day that Mr Mokbel doesn't turn up for his trial,
12:03:30 33 p.197, there's an entry there of fail to note the time, but
12:03:35 34 it's apparent that the Federal Police informant who'd been
12:03:39 35 at court, who was Jarrod Ragg, had told her that Mr Mokbel
12:03:45 36 was not under surveillance over the weekend. Do you know
12:03:49 37 if there was any Federal surveillance that had been going
12:03:53 38 on in relation to Mr Mokbel?---No, I didn't have a good,
12:03:57 39 very good relationship with the AFP.
40
12:04:09 41 COMMISSIONER: So if there was Federal surveillance that
12:04:12 42 might be what the earlier note in the ICRs related to?---It
12:04:15 43 may have been, Commissioner.
44
12:04:17 45 MS TITTENSOR: Or the SCSU, was that a Victorian Police
12:04:20 46 unit?---It was.
47

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12:04:21 1 If you're cancelling the SCSU it would be cancelling the
12:04:25 2 Victoria Police surveillance?---It might be, but
12:04:27 3 occasionally - it depended on shortages. I mean we did go
12:04:32 4 to the AFP for assistance on occasions, we did go to the
12:04:35 5 Ethical Standards Department on occasions when we had a
12:04:38 6 shortage of resources.
7

12:04:40 8 You've just indicated earlier that you'd failed to
12:04:44 9 appreciate the significance of that information from
12:04:45 10 Ms Gobbo earlier on so I assume that that hadn't been
12:04:50 11 passed on to the AFP, that he was up to something over the
12:04:53 12 weekend?---No, I wouldn't think so.
13

12:05:04 14 On 21 March, if we can go to p.202. You'll see it's a
12:05:15 15 little bit up from there. You'll see that Ms Gobbo,
12:05:21 16 there's an entry there of Ms Gobbo asking, "Re talking to
12:05:25 17 detectives from Purana in relation to the [REDACTED] matter.
12:05:27 18 She's advised that there's no problem with that but all
12:05:32 19 else is to go through the handler". So it seems as though
12:05:38 20 that there's an indication to her, "Well, you can talk to
12:05:43 21 Purana detectives about [REDACTED] and his potential
12:05:47 22 cooperation but about everything else you can talk to us",
12:05:54 23 do you see that?---I'm just - - -
12:06:04 24

12:06:05 25 The cursor is - - - ?---Yes, I can see that, yes.
26

12:06:08 27 Is that something you would have had some discussion with
12:06:11 28 in relation to how things were to work with Ms Gobbo and
12:06:15 29 her communications with you and with them?---No, not to my
12:06:23 30 recollection. I believe everything was through them but I
12:06:25 31 can check my diary if you like.
32

12:06:29 33 Ordinarily it might be through the SDU if she's acting as
12:06:35 34 an informer but potentially if she's trying to negotiate on
12:06:39 35 behalf of [REDACTED] ordinarily a lawyer might - - -
12:06:45 36 ?---She might go direct to the detective involved.
37

12:06:48 38 Direct to a detective. That would be the ordinary course,
12:06:50 39 is that the investigators or the OPP would have direct
12:06:53 40 communication?---Yes.
41

12:06:55 42 With the lawyers, and ordinarily the solicitor, perhaps the
12:06:59 43 barrister from time to time; is that right?---That's
12:07:01 44 correct.
45

12:07:02 46 That was the ordinary way that these things were
12:07:05 47 done?---That's correct.

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1
12:07:13 2 You'll see under 17:50 there Ms Gobbo was seeing [REDACTED]
12:07:20 3 the following morning. She was advised that the overall
12:07:29 4 situation was better for her not to be involved with
12:07:34 5 [REDACTED] making statements if possible, and she said she
12:07:36 6 knows this but she feels obligated to do so but may be able
12:07:40 7 to explain to him about it?---True.
8
12:07:43 9 She said she'd spoken to Detective Bateson and he'd do the
12:07:48 10 465 warrant on her office?---Correct.
11
12:07:57 12 Mr Bateson's got some notes that day at 15:20, at 3.20 in
12:08:05 13 the afternoon, indicating that he and Detective Kerley had
12:08:10 14 met with [REDACTED] but their meeting was
12:08:14 15 discontinued because she said that [REDACTED] was going to
12:08:18 16 maintain his innocence?---Right.
17
12:08:24 18 Twenty minutes later Mr Bateson has another note saying
12:08:27 19 he'd been contacted by Ms Gobbo, who stated that she was
12:08:30 20 contacted by [REDACTED] and that Ms Gobbo was now
12:08:35 21 going to meet with [REDACTED] the following
12:08:38 22 morning?---Right.
23
12:08:42 24 The next day, the 22nd of March, Bateson's got some more
12:08:46 25 notes. He'd spoken again to [REDACTED] and he was
12:08:51 26 now told by her that she wanted Bateson to see [REDACTED]
12:08:57 27 and that [REDACTED] would tell the truth?---Right.
28
12:09:02 29 It seems apparent from that Ms Gobbo's spoken to [REDACTED]
12:09:07 30 [REDACTED] and convinced [REDACTED] that it's in [REDACTED]
12:09:09 31 interests to cooperate and so things have changed?---That
12:09:14 32 may have been the case.
33
12:09:20 34 On the next day, the 23rd of March, there's another visit
12:09:25 35 to [REDACTED] by yourself and Mr Bateson and I think your
12:09:33 36 diary indicates you speak to him between 10.18 and
12:09:39 37 11.58 am. If we can go to the transcript of the audio
12:09:44 38 recording at VPL.0005.0062.0609. Do you see there that's a
12:10:17 39 transcript of a conversation between yourself and
12:10:20 40 Mr Bateson with [REDACTED] at the prison on [REDACTED]
12:10:24 41 2006?---Yes.
42
12:10:30 43 If you can scroll through to p.2. I'll just try and find
12:10:45 44 what I'm looking for. You'll see there about halfway down
12:10:52 45 [REDACTED] says that he wants it to be out in the open,
12:10:55 46 "Right, youse can believe me or not believe me but I know
12:10:59 47 one thing for sure, I'm gonna tell you the truth. You can

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12:11:03 1 believe it any way you like", do you see that?---Yes, I can
12:11:06 2 see that.
3

12:11:08 4 Then the conversation continues. If we go to p.16?---Yes.
5

12:11:29 6 You see down the bottom he's giving an account of what
12:11:35 7 occurred I think on the day of the [REDACTED] murders and
12:11:39 8 down the bottom he's saying, "He went back and said to
12:11:44 9 [REDACTED] 'This is bullshit.' Went to [REDACTED], had [REDACTED]
12:11:47 10 [REDACTED] and we were coming back. We were on the way back".
12:11:51 11 He goes on, "We were speaking I think to Nicola on the
12:11:55 12 phone and Nicola said that [REDACTED]'s been
12:12:00 13 shot"?---Right.
14

12:12:00 15 If we go over the page. "Yep, right. And that [REDACTED]
12:12:04 16 [REDACTED]'s been shot. I said, 'Here we go', when Nicola said
12:12:08 17 it's was the park, I just looked at [REDACTED], I said, I'm like,
12:12:09 18 because [REDACTED]. I looked at [REDACTED] and I said 'just
12:12:11 19 bullshit'. Anyway, [REDACTED] said, 'Drive past the scene' and
12:12:14 20 we drove past the scene" and so on there. Do you see
12:12:21 21 that?---Yes.
22

12:12:22 23 At that stage you've been told at least that there's been a
12:12:25 24 communication between [REDACTED] and Ms Gobbo shortly after
12:12:33 25 the murder on the day?---Yes.
26

12:12:47 27 Was that something you'd learnt at that stage or was that
12:12:50 28 something you already knew?---It would have been something
12:12:53 29 I probably learnt, because I checked, I had a look at my
12:12:59 30 diary, I can see no, nothing in the day previous in
12:13:03 31 relation to any information I received.
32

12:13:04 33 Would you have learnt at that stage, I took you through
12:13:07 34 some evidence yesterday, would you have learnt at that
12:13:09 35 stage that [REDACTED] had been spoken to by Mr Bateson in
12:13:13 36 the short period after the murder and had given a similar
12:13:19 37 account of going [REDACTED] and Ms Gobbo coming along
12:13:22 38 with him to be interviewed by Mr Bateson?---No, as I say I
12:13:26 39 didn't have an integral role in this particular murder
12:13:29 40 inquiry. It's something I, one, as being the
12:13:36 41 officer-in-charge stepping into the role there.
42

12:13:38 43 Would it have been of some concern that Ms Gobbo seems to
12:13:43 44 have been in the mix involved in the circumstances and the
12:13:46 45 facts on the day of this murder and this is something about
12:13:49 46 which we want the witness to give an account, but at the
12:13:54 47 same time she's providing this person, or purporting to

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12:13:58 1 provide this person advice?---Again, I wouldn't have been
12:14:03 2 fully au fait with what her role was in this.
3
12:14:08 4 On that simple account there that she'd been on the phone
12:14:11 5 to him and had reported the shooting to he and [REDACTED] shortly
12:14:15 6 after the murder would potentially make her a witness,
12:14:17 7 wouldn't it?---It could do, yes.
8
12:14:28 9 If we can go to p.81. You'll see about halfway down there,
12:14:40 10 Mr O'Brien, that you're quoted and you're saying there, "So
12:14:46 11 what are you going to do as far as the solicitor goes?" It
12:14:50 12 goes on. You can read that there. He says, "Well, depends
12:14:57 13 what youse want to do. Can I ask a question?" You say,
12:15:01 14 "Yeah". He says, "Nicola - listen to this one, right.
12:15:06 15 You've got to answer this for me. Nicola and Jim would
12:15:09 16 like to convince me, because Nicola knows, right, really I
12:15:13 17 shouldn't be doing fucking [REDACTED] years for nothing because she
12:15:16 18 knows a fair bit about it and she's the one that convinced
12:15:19 19 me to come in as well, and Jim Valos. Jim Valos always
12:15:25 20 has. Forget Jim now. I want to ask you, one sec, I want
12:15:26 21 to ask you a question, right. Nicola's the one who
12:15:27 22 convinced me and she convinced my wife yesterday too. I
12:15:32 23 don't know, but I trust her. Who can I get to put it all
12:15:36 24 together for me?" Do you see that?---Yes.
25
12:15:42 26 If we go on, scrolling up. We see Mr Bateson says, "Look,
12:15:54 27 I reckon Jim Valos is on honest solicitor". [REDACTED]
12:15:59 28 indicates that he might be a bit weak though. Bateson
12:16:04 29 responds, "But he's honest". [REDACTED] says, "Yeah". Then
12:16:09 30 Bateson says, "And I believe Nicola is ultimately honest
12:16:12 31 too". [REDACTED] says, "She is but I don't think she'll
12:16:18 32 sell me out to 'em". Bateson says, "Well I don't think she
12:16:22 33 will either". [REDACTED] says, "I'll be honest with you,
12:16:25 34 I've got a gut feeling she'd rather help you than help
12:16:28 35 what's going on out there". Bateson, "Well I don't know
12:16:32 36 about that but I think she's honest, mate". [REDACTED]
12:16:41 37 "Can I ask you this question? If whatever happens I need
12:16:44 38 someone I can trust, right, Nicola's the one. Like they
12:16:48 39 come in (indecipherable) they were convincing me that and
12:16:52 40 they convinced [REDACTED] yesterday too after what happened".
12:16:54 41 You say then, "I think it would be advantageous for you to
12:17:00 42 have someone independent". [REDACTED] says, "That's what I
12:17:04 43 was thinking but at the same time they don't know my whole
12:17:08 44 situation. Nicola knows the inside and outside of it, do
45 you understand what I'm trying to say? if there was an
12:17:12 46 agreement, she's sort of, you know what I mean?"
12:17:13 47 Mr Bateson says, "Well from my point of view, that's all up

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12:17:16 1 to you. From my point of view I just want to say that I
12:17:18 2 think Nicola". [REDACTED] comes right out and he says,
12:17:23 3 "Would you use Nicola?" Bateson says, "Oh". [REDACTED]
12:17:29 4 says, "I'm me. If you're me. I've told you how upfront it
12:17:34 5 is". And you say, "Alls you want to do is get someone
12:17:38 6 who's going to act for you properly and in your best
12:17:40 7 interests and be honest". [REDACTED] says, "And no one can
12:17:43 8 know nothing, that's it". Bateson says, "And I think, I
12:17:48 9 think she would do that". You say, "And keep their mouth
12:17:51 10 shut". He says, "She'll keep her mouth shut". Bateson
12:17:55 11 says, "Can I just say this". Then [REDACTED] says, "The
12:17:59 12 only reason she's doing it for me, I don't want to piss in
12:18:05 13 her pockets, she knows what she's going through" - - -

14
12:18:13 15 COMMISSIONER: "What I'm going through."

12:18:15 16
12:18:15 17 MS TITTENSOR: "What I'm going through." And Bateson says,
12:18:17 18 "Can I just say this, you know, I do believe she's honest.
12:18:20 19 You know, I do believe that she". [REDACTED] says, "But I'm
12:18:24 20 not putting pressure on her". Bateson says, "You're
12:18:27 21 putting her in a difficult situation". [REDACTED] says,
12:18:30 22 "I've asked her that question. I've asked Jim. And Jim
12:18:33 23 will relieve himself. And Nicola goes, 'No. I'll fight for
12:18:40 24 you the whole way'." So there's an indication there that
12:18:42 25 Jim will back out of it if he feels conflicted but Nicola
12:18:46 26 says no, she won't, she'll fight the whole way. Bateson,
12:18:51 27 "Well that's up to Nicola, but that's what you're putting
12:18:55 28 her in". [REDACTED] "Yeah, I asked her that question. She
12:18:56 29 told me yesterday, you know what I mean, like I said to
12:18:57 30 her, I said to her, 'You want to be fucking hit left, right
12:19:03 31 and centre what's going on'." He goes on, "Right". And he
12:19:08 32 goes, "No, 'I want to fight for you'. She told [REDACTED] the
12:19:11 33 same thing yesterday". Bateson, "I mean from my point of
12:19:18 34 view I think Nicola is an honest barrister". [REDACTED]
35 "If there's something going on, the reason I want her is
12:19:22 36 she know the whole situation. I can't get some Joe Blow
12:19:25 37 off the street". Do you see all of that?---Yes.

38
12:19:34 39 Both you and Mr Bateson knew that she was acting in the
12:19:39 40 police interests and not [REDACTED] interests?---That's
12:19:43 41 right, she was providing information.

42
12:19:47 43 She was the antithesis of someone who was acting properly
12:19:51 44 in relation to her duties as a lawyer?---More than likely,
12:19:55 45 yes.

46
12:19:57 47 You knew that she was nowhere near being honest with

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12:20:02 1 [REDACTED]--I don't know what she spoke to [REDACTED]
12:20:08 2 about.
3
12:20:08 4 You knew she hadn't told [REDACTED] that she was a police
12:20:12 5 informer?---No, she certainly hadn't done that.
6
12:20:15 7 She was not independent?---No, probably not.
8
12:20:20 9 She had an interest in preventing [REDACTED] from getting
12:20:25 10 full disclosure about matters relevant to him, the
12:20:30 11 [REDACTED] matters?---I don't know. I don't know that.
12
12:20:37 13 She was desperate for it not to come out that she assisted
12:20:45 14 [REDACTED] in the process of his role in making statements,
12:20:49 15 do you understand that?---From what you told me, yes.
16
12:20:53 17 Why didn't you tell [REDACTED] flat out, "She can't act for
12:20:59 18 you, she's not independent, she's a not impartial, can't
12:21:02 19 happen"?---Well if I'd have done that she'd probably be
12:21:08 20 dead.
21
12:21:12 22 You could have said, "She's potentially a witness, we're
12:21:16 23 not allowing it. It can't happen. We're going to go speak
12:21:20 24 to the OPP"?---That's certainly something I didn't
12:21:26 25 contemplate at the time obviously or I would have said
12:21:28 26 that.
27
12:21:29 28 Is it the case that it was in the police interests to have
12:21:31 29 her involved in this matter?---No.
30
12:21:33 31 Did you get any advice whatsoever from anyone else about
12:21:39 32 this problem of having Ms Gobbo representing [REDACTED]---I
12:21:44 33 didn't, no.
34
12:21:46 35 You knew he deserved and it was his right to have
12:21:52 36 independent, impartial representation?---Yes, and I think
12:21:55 37 that's what it says in the transcript.
38
12:21:57 39 You knew that he wasn't getting that?---No, he appeared to
12:22:03 40 be hellbent on having her, reading that transcript.
12:22:06 41
12:22:06 42 He was hellbent on having her without the knowledge of her
12:22:10 43 lack of impartiality and independence?---Yes, quite
12:22:15 44 possibly.
45
12:22:17 46 And you were never going to tell him about that?---I wasn't
12:22:19 47 going to declare her as an informer, no.

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O'BRIEN XXN - IN CAMERA

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These claims are not yet resolved.

1
12:22:24 2 Did you get any advice on that situation, "About what we
12:22:30 3 should do about that situation, is there any way we can
12:22:34 4 prevent her from acting without disclosing her role as an
12:22:38 5 informer"?--I didn't, but Bateson may well have.
6
12:22:42 7 Do you think in hindsight you should have?--Well if it
12:22:46 8 hasn't been done, yes.
9
12:22:49 10 Did you instruct Bateson to do it?--No, I didn't instruct
12:22:56 11 Bateson.
12
12:22:58 13 Did you speak to Mr Ryan about it?--I may have.
14
12:23:02 15 About your concerns about her lack of independence and
12:23:07 16 impartiality in representing [REDACTED]---Look, I'd have to
12:23:12 17 check through my notes.
18
12:23:14 19 Do you have any recollection of - - - ?---I don't have a
12:23:17 20 recollection of it.
21
12:23:18 22 Did you report any of this up the line in your weekly
12:23:22 23 briefings to Mr Overland and others?--Quite possibly did.
24
12:23:28 25 The concerns that you had about Ms Gobbo representing
12:23:33 26 [REDACTED] you reported those?--I don't know about
12:23:36 27 concerns. As I said, I could check my notes and have a
12:23:39 28 look what I've recorded.
29
12:23:40 30 Perhaps in a break or overnight we'll come back to that
12:23:43 31 matter and if you do find any of those entries you can let
12:23:46 32 the Commission know?--All right.
33
12:23:54 34 If we can go to the ICR, p.204, please.
35
12:24:11 36 COMMISSIONER: It's VPL.2000.0003.1790. You've got it.
12:24:17 37
12:24:17 38 MS TITTENSOR: I tender that last transcript, Commissioner.
39
12:24:21 40 COMMISSIONER: Yes.
12:24:25 41
12:24:27 42 #EXHIBIT RC476A - (Confidential) transcript between Bateson
12:24:31 43 and [REDACTED] at [REDACTED] Prison on
12:24:34 44 23/03/06.
45
12:24:41 46 #EXHIBIT RC 476B - (Redacted version.)
12:24:53 47

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O'BRIEN XXN - IN CAMERA

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12:24:57 1 MS TITTENSOR: You'll see down the bottom there in that
12:24:59 2 entry on 23 March 2005 at 12:50 there's various information
12:25:11 3 being recorded there by the handler in relation to
12:25:14 4 information from Ms Gobbo, do you see that?---Yes, I can
12:25:18 5 see that.
6
12:25:19 7 And then right down the bottom there's an entry there that
12:25:23 8 you were advised, presumably, in relation to that material
12:25:28 9 above it. It goes on to say, "DSS O'Brien advised.
12:25:37 10 Suggests get human source to recommend another barrister to
12:25:41 11 [REDACTED] ASAP, possibly O'Doherty SC", do you see
12:25:46 12 that?---Yes.
13
12:25:54 14 Do you now recall that you had a discussion with someone
12:25:56 15 from the SDU about getting Ms Gobbo to recommend another
12:26:00 16 barrister to [REDACTED] ---I don't recall it but again I can
12:26:07 17 check my notes in relation to it. And it would be unusual
12:26:11 18 for me to suggest Mr O'Doherty. I don't believe I know him
12:26:17 19 or ever had anything to do with him.
20
12:26:21 21 It may be you've had a conversation with a number of people
12:26:24 22 and you've come up with a particular name that suits some
12:26:27 23 other people in Purana. But that's what's recorded there,
12:26:31 24 that you've indicated to the SDU that another barrister
12:26:36 25 should be recommended to [REDACTED] do you see that?---Yes.
26
12:26:41 27 Clearly an indication that you've had some concern coming
12:26:44 28 out of that interview or that conversation you've had with
12:26:47 29 [REDACTED] about the independence and impartiality of his
12:26:50 30 representation?---Yes, that may be the case.
31
12:26:54 32 If we go to your diary for that day, this is 23 March.
12:27:25 33 You'll see that you've got a number of entries there at
12:27:29 34 13:04 and 13:38 in relation to receiving intelligence from
12:27:38 35 Smith and from Green, various bits of information, do you
12:27:43 36 see that?---Yes.
37
12:27:45 38 There's no entry there in relation to there needing to be
12:27:52 39 another barrister for [REDACTED] or getting Ms Gobbo to
12:27:55 40 arrange that?---No, there's not.
41
12:28:00 42 Is there a particular reason why you might not have put
12:28:03 43 that in your diary?---No, no particular reason. It might
12:28:07 44 have been just part of a discussion during the course of
12:28:10 45 the day. As I say, I don't have a recollection of it but
12:28:13 46 it might have been something Bateson said that - - -
47

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O'BRIEN XXN - IN CAMERA

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These claims are not yet resolved.

12:28:16 1 Would it have been a concern that your diary notes might be
12:28:19 2 subpoenaed and it would look a bit odd to be telling
12:28:21 3 Ms Gobbo, or a human source, 3838, to be recommending
12:28:26 4 another barrister for [REDACTED] --No, I wouldn't have any
12:28:29 5 reason to leave that out of my diary. I mean I've put
12:28:33 6 everything else in there. I was also managing 55 people
12:28:41 7 and the resources of over 200 people on a daily basis. I
12:28:45 8 didn't note every single thing that happened in the course
12:28:48 9 of my day.

10
12:28:51 11 Ultimately [REDACTED] was allowed to plead guilty to murder,
12:29:01 12 allowed to become a prosecution witness in circumstances
12:29:05 13 where you would understand that he'd have to look over his
12:29:08 14 shoulder for the rest of his life, without having received,
12:29:15 15 first of all, adequate disclosure of the case against him,
12:29:18 16 but second of all, without being told that his legal
12:29:21 17 representation had been seriously compromised, do you
12:29:26 18 accept that?---No, because I don't know who represented him
12:29:29 19 in the end. I didn't play any part in the court
12:29:33 20 proceedings in relation to [REDACTED] or [REDACTED]

21
12:29:39 22 If we can look at paragraph 145 of your statement. You
12:29:53 23 talk about on 28 March attending a meeting with Mr White
12:30:01 24 and Mr Smith in relation to 3838 issues?---That's correct.

25
12:30:14 26 If we go to the SML for that date. Do you see in the top
12:30:53 27 box there about halfway down there's reference to a meeting
12:30:56 28 with you?---That's correct.

29
12:31:00 30 It goes on to say, "Human source to be painted as a target
12:31:04 31 to the AFP"?---Correct.

32
12:31:08 33 Perhaps we might need to read above it to understand the
12:31:11 34 context of it. It seems to be there's a concern in
12:31:15 35 relation to the AFP perhaps identifying Ms Gobbo as a
12:31:24 36 source having regard to a potential leak from the AFP to
12:31:29 37 David Waters?---That's correct.

38
12:31:32 39 Ms Gobbo had previously been given some information from
12:31:36 40 Mr Waters about her phones being subjected to telephone
12:31:40 41 intercepts?---That's correct.

42
12:31:43 43 There's a meeting with you and it's indicated, "Well, she's
12:31:46 44 to be painted as a target", do you see that?---That's
12:31:50 45 correct.

46
12:31:51 47 Do you recall that happening?---No, I don't recall that

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12:31:57 1 happening.
2
12:31:59 3 Do you recall how that would happen, how it might be that
12:32:02 4 she'd go about - you might paint her as a target?---No, not
12:32:11 5 really.
6
12:32:12 7 It says there, "Human source to be painted as a target to
12:32:15 8 the AFP. You are to determine if any conversation of AFP
12:32:18 9 Karam lines relevant to the position of Ms Gobbo". Do you
12:32:22 10 know what that's about?---No. I think it was about that
12:32:32 11 there was a possible leak at the AFP and that they had
12:32:36 12 operations running and the concerns were that her identity
12:32:40 13 would have been disclosed, may have been disclosed as part
12:32:43 14 of their operation.
15
12:32:45 16 When it's talking about "Karam lines" are they talking
12:32:48 17 about telephone intercepts with Mr Karam and that she might
12:32:51 18 be on those?---That's quite possible.
19
12:32:54 20 And there was a concern, was there any concern that she
12:32:57 21 might be involved in whatever Mr Karam was involved
12:33:02 22 in?---No, I don't think that was the case at all.
23
12:33:06 24 Or that it might look to the AFP like - - - ?---Well it
12:33:09 25 could look that way.
26
12:33:11 27 Following that there's an indication that, "Purana members
12:33:16 28 aware of Ms Gobbo's identity, to be given a coach's address
12:33:21 29 re security", do you see that?---That's correct, I see
12:33:26 30 that.
31
12:33:26 32 What was that about?---I've got no idea now. It would have
12:33:30 33 been just, I believe, normal part of informer management,
12:33:33 34 that people need reminding of the security of intelligence
12:33:36 35 and human sources.
36
12:33:37 37 Would that have included, "Just be careful about what you
12:33:42 38 write in your notes about anything she's involved
12:33:45 39 in"?---No. Definitely not.
40
12:33:52 41 If we can go to the ICRs, p.223, please. I might have the
12:34:17 42 wrong - I'm after 5 April.
43
12:34:23 44 COMMISSIONER: It starts down the bottom of 1808 and goes
12:34:26 45 into 1809.
46
12:34:29 46 MS TITTENSOR: Yes, just there, that's fine. You see there
12:34:29 47

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12:34:32 1 there's a management issue there, the SDU have been advised
12:34:37 2 by you that telephone intercepts indicate that Carl
12:34:40 3 Williams had rung Roberta Williams and told her to go and
12:34:43 4 see Ms Gobbo to ascertain her involvement with [REDACTED]
12:34:47 5 [REDACTED]---Yes.
6
12:34:50 7 Do you recall that going on?---No, I don't. Now I don't
12:34:57 8 specifically recall it.
9
12:35:00 10 I don't understand that there's an entry in your diary in
12:35:05 11 relation to that matter. Would there be any reason why you
12:35:09 12 wouldn't have recorded that in your diary?---No, there'd be
12:35:14 13 no reason not to record it in my diary.
14
12:35:22 15 Page 226?---Look, if I can just check my diary. I mean
12:35:28 16 you're asking all questions for something 14 years ago on
12:35:33 17 someone else's document that I've had no input into, so I'd
12:35:37 18 just like to check and see what is in my diary if possible,
12:35:44 19 please.
20
12:35:45 21 Yes, sure. Of course?---Wrong date again, sorry. 5 April.
22
12:36:14 23 If it assists, that's an entry in the ICR at 11:17 so it
12:36:20 24 would be some time before that?---Thank you. The first
12:36:35 25 entry I have on that day is 14:24 with one of the DSU
12:36:41 26 members re 3838.
27
12:36:45 28 I'm talking about the 5th - - - ?---April 06.
29
12:36:48 30 Yes?---Yes.
31
12:36:50 32 You've got an entry, the first entry at 6:50?---6.50 am,
12:36:55 33 that's correct.
34
12:36:56 35 Yes. There doesn't appear prior to 11:17 to be any
12:37:07 36 communication with the SDU?---No. In fact I was told in
12:37:13 37 relation to information coming from the prison in relation
12:37:17 38 to threats against the life of AC Overland and organising
12:37:25 39 resources around that. Dealing with prison information.
40
12:37:30 41 Would you agree that there doesn't appear to be any entry
12:37:33 42 of a communication with the SDU?---Not until 14:24 that
12:37:38 43 day.
44
12:37:38 45 If we can go to p.226. You'll see about a third of the way
12:37:56 46 down the page under the heading [REDACTED]?---Yes.
12:38:02 47

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O'BRIEN XXN - IN CAMERA

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12:38:02 1 "Human source believes [REDACTED] is at a stalemate with
12:38:07 2 police and prosecutors over the terms of his cooperation.
12:38:11 3 Believes [REDACTED] is scared of Jim O'Brien from Operation
12:38:18 4 Purana. Last week [REDACTED] and [REDACTED] weren't
12:38:21 5 talking, now they've made up." Do you see that?---Yes.
6
12:38:25 7 If we go to your diary for the day after that, the 6th of
12:38:32 8 April?---Yes.
9
12:38:58 10 Included in that you received various information that's
12:39:03 11 been provided by Ms Gobbo the day before, do you see
12:39:08 12 that?---Yes.
13
12:39:11 14 It included that [REDACTED] and [REDACTED] were not talking but
12:39:18 15 had since made up?---Yes.
16
12:39:21 17 It doesn't include any information about [REDACTED] the
12:39:27 18 [REDACTED] stalemate and his being scared of you?---I didn't
12:39:31 19 really consider that - I wouldn't have considered that
12:39:35 20 terribly important to tell you the truth.
21
12:39:39 22 Assuming you'd been told that, you wouldn't have written it
12:39:42 23 down because you didn't consider it important?---Well, you
12:39:46 24 know, whether someone's scared of me or not, I don't know
12:39:50 25 what reason anybody would have to be scared of me.
26
12:39:53 27 Or that there's a stalemate in terms of where they're at in
12:39:56 28 terms of his cooperation?---Unless I've not recorded it,
12:40:03 29 I've not recorded it.
30
12:40:05 31 If we can go to page - - - ?---I mean that would be the
12:40:09 32 natural ebb and flow of these things in any event I'd
12:40:12 33 think.
34
12:40:13 35 If we can go to p.235 of the ICRs please. You'll see
12:40:38 36 there's an indication there about halfway down, Ms Gobbo's
12:40:48 37 having a discussion with Ms Garde-Wilson. "Ms Garde-Wilson
12:40:56 38 is pissed off", it says, "because of a rumour that [REDACTED]
12:41:00 39 [REDACTED] is going to roll. Ms Garde-Wilson wants a joint
12:41:04 40 conference with him, [REDACTED] and Ms Gobbo. Ms Gobbo
12:41:07 41 told her any time". Do you see that?---Yes.
42
12:41:12 43 If we can go to p.238, please. This is 13 April, down the
12:41:24 44 bottom of the page, you see under the heading "Gao1
12:41:29 45 conference" at 9:55 am?---Yes.
46
12:41:34 46
12:41:36 47 "The source requested that the DSU get the approval from

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O'BRIEN XXN - IN CAMERA

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12:41:41 1 Operation Purana for the source to attend a meeting at the
12:41:44 2 gaol involving her, [REDACTED], [REDACTED] and
12:41:47 3 [REDACTED]?---Yes.
4
12:41:49 5 She wanted the meeting to occur to stop some gaol gossip
12:41:52 6 about [REDACTED] and they said that they would, the DSU
12:41:57 7 would speak with investigators and respond in due
12:42:00 8 course?---Right.
9
12:42:03 10 Do you recall anything about that?---No, I don't.
11
12:42:09 12 If we go to p.240. You'll see down the bottom there's a
12:42:24 13 number 5 in relation to DSU management and taskings?---Yes.
14
12:42:30 15 "The requested gaol conference is unlikely to be sanctioned
12:42:35 16 by Operation Purana", as per the 9:55 call on 13 April. Do
12:42:44 17 you know whether there was any discussion about such a
12:42:46 18 conference taking place?---I'll just check my diary and
12:42:51 19 have a look. I have no note of that.
20
12:44:01 21 I think on that day you've got some significant notes in
12:44:04 22 relation to various intelligence that's been passed on to
12:44:07 23 you; is that right?---Yes, I have.
24
12:44:09 25 But no note in relation to any conversation about a gaol
12:44:11 26 conference?---No. From that note there it may have gone
12:44:22 27 direct to the investigators and not to me.
28
12:44:24 29 That may be right. At p.248, was it the case that SDU
12:44:32 30 would have that direct communication with the investigators
12:44:34 31 or were you meant to be the single point of contact?---I
12:44:37 32 was supposed to be the single point of contact but they may
12:44:41 33 have gone direct to the investigators depending on what it
12:44:44 34 was.
35
12:44:45 36 COMMISSIONER: Indeed, there's a note on 240 to that
12:44:50 37 effect, "Investigators updated of details".
38
12:45:02 39 MS TITTENSOR: You'll see on 18 April at 19:20, if you go
12:45:08 40 down slightly, there's a reference to Zarah and it's got
12:45:18 41 "Zarah's prison meeting idea" with Zarah, the source, [REDACTED]
12:45:23 42 [REDACTED] and [REDACTED] "was cancelled due to a lack of
12:45:26 43 staff at the prison"?---Yes.
44
12:45:30 45 And under that it's got, "Jim O'Brien Purana
12:45:37 46 updated"?---Yes.
47

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O'BRIEN XXN - IN CAMERA

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12:45:38 1 Again, there doesn't appear to be anything in your diary
12:45:44 2 about the discussion about the prison meeting?---No.
3
12:45:50 4 Is it the case that you wouldn't have put that in your
12:45:54 5 diary because you distinguished between that and the
12:45:57 6 intelligence that you were putting in your diary?---I
12:46:03 7 suppose I didn't - if I'd been told about it I would have
12:46:07 8 written it in my diary.
9
12:46:13 10 It seems as though there was some intention at least to
12:46:16 11 have some communication with Purana about this meeting.
12:46:23 12 It's got a note directly under it that you were updated.
12:46:27 13 Is it the case that what you put in your diary generally
12:46:30 14 related to matters in the nature of intelligence about
12:46:35 15 investigations, as opposed to not putting in your diary
12:46:40 16 matters relating to things like ██████████'s prosecution and
12:46:53 17 possible cooperation?---No, I didn't intentionally leave
12:46:55 18 anything out of my diary. I mean again that would be to me
12:47:01 19 fairly unimportant, that piece of information, that the
12:47:05 20 meeting's not going to happen. Well - - -
21
12:47:14 22 If we can go to VPL.0005.0058.0345. It should be
12:47:50 23 Mr Bateson's diary. You'll see there the highlighted part
12:48:16 24 on the screen in front of you, this is Mr Bateson's diary,
12:48:22 25 that on 19 April there's a meeting with yourself and Ryan
12:48:30 26 in relation to ██████████ It's resolved, "Nil further
12:48:34 27 approach from us at this stage. Supply transcript to 3838
12:48:38 28 with edits and have her approach ██████████ do you see
12:48:42 29 that?---Yes.
30
12:48:45 31 Do you recall what that's about?---No, I have a note in my
12:48:50 32 diary at that time.
33
12:48:58 34 Is your note in your diary, you've got a note at 9 o'clock,
12:49:03 35 "Coffee with Ryan and Bateson, discuss ██████████
12:49:07 36 issues"?---That's correct.
37
12:49:08 38 Do you accept that Bateson's note of what occurred at that
12:49:11 39 meeting is accurate?---It may well be, yes.
40
12:49:16 41 That it was decided that Purana weren't going to go back to
12:49:19 42 ██████████ but they were going to send in Ms Gobbo, armed
12:49:23 43 with a transcript and edits, and have her do the work of
12:49:27 44 the police?---Well that's what that appears to indicate.
45
12:49:35 46 Do you see any problem with that?---As I say, that would
12:49:40 47 have been a matter for Detective Inspector Ryan and

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O'BRIEN XXN - IN CAMERA

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12:49:43 1 Mr Bateson who had carriage of that investigation.
2
12:49:46 3 I'm asking you though, you're involved in this meeting,
12:49:50 4 you're the head of Purana, did you see a problem with
12:49:53 5 that?---I'd have to know what the transcript was about for
12:49:56 6 a start.
7
12:50:00 8 You're a part of this meeting?---That's right.
9
12:50:03 10 Do you know what this transcript is about?---No.
11
12:50:05 12 You understand that this is transcript of meetings with
12:50:10 13 [REDACTED] between yourself and Mr Bateson and it's a
12:50:19 14 transcript that's going to be supplied to Ms Gobbo, as it
12:50:23 15 turns out it's that transcript that's going to be supplied
12:50:28 16 to Ms Gobbo to take in and have discussions with [REDACTED]
12:50:32 17 about his cooperation and what he might say?---Right.
18
12:50:34 19 Do you see a problem with that?---Certainly.
20
12:50:38 21 What's the problem?---Well when you say a problem, the fact
12:50:44 22 that she was a police informer.
23
12:50:47 24 The fact that she was [REDACTED] lawyer?---Well, I'm a bit
12:50:54 25 unsure about that at this stage.
26
12:50:57 27 [REDACTED] would have been thinking that, "She's my
12:51:01 28 lawyer"?---Well she's a lawyer, yes.
29
12:51:04 30 Of that, "She's my lawyer, she's providing me with
12:51:05 31 advice"?---He might. I don't know how far it had gone down
12:51:08 32 the track at this stage, whether she'd gone to someone else
12:51:11 33 or not.
34
12:51:12 35 Well, up until this point he's been indicating that he's
12:51:15 36 receiving legal advice from her; is that right?---Yes, he
12:51:18 37 had.
38
12:51:20 39 And clearly what she'd been telling him, from what he'd
12:51:23 40 been telling you, is that, "She's advising me to
12:51:27 41 cooperate"?---That's what he said, yes.
42
12:51:32 43 If we can go to the SMLs for that date. This is the
12:52:06 44 recording of the controller there, "Meet with Jim O'Brien,
12:52:19 45 Purana". Some discussion in relation to [REDACTED] Then,
12:52:24 46 "Request for human source to speak to [REDACTED] re
12:52:28 47 truthfulness of statements being made by same". Do you see

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O'BRIEN XXN - IN CAMERA

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These claims are not yet resolved.

12:52:32 1 that?---Yes.
2
12:52:33 3 Do you accept that that was a conversation that you had
12:52:37 4 with the SDU?---I may have.
5
12:52:42 6 That you've requested for Ms Gobbo to go and speak to
12:52:49 7 ██████████ about the truthfulness of the statements that
12:52:55 8 have to that point been made by ██████████ to
12:52:59 9 Purana?---That's what the document says, yes.
10
12:53:01 11 And that would only be because of a concern that Purana had
12:53:04 12 that ██████████ was being less than truthful in what he was
12:53:07 13 telling them?---Quite possibly.
14
12:53:10 15 And that Purana were concerned that Ms Gobbo might be able
12:53:15 16 to influence him to be a bit more truthful?---Well she may
12:53:21 17 have, yes.
18
12:53:35 19 The usual case would be, in these matters would be to make
12:53:43 20 communications about cooperation overtly through an
12:53:46 21 instructing solicitor, would that be right?---That's
12:53:51 22 correct.
23
12:53:51 24 Why was this not being requested of Jim Valos, who was his
12:53:58 25 solicitor on the record?---I'm not sure.
26
12:54:05 27 The only inference really that can be drawn is that Purana
12:54:08 28 wanted Ms Gobbo to influence ██████████ to cooperate and to
12:54:13 29 change his story in some way?---That may have been the
12:54:19 30 case, I'm not sure.
31
12:54:20 32 It's a fair inference, isn't it?---Well, from what you're
12:54:24 33 saying here, without me examining documents further, yes.
34
12:54:28 35 And it's a fair inference that this being done through the
12:54:33 36 SDU meant that no one ever intended for this to be
12:54:36 37 disclosed to either ██████████ or anyone he made statements
12:54:42 38 about?---I don't think that's the case. I mean, as I say,
12:54:47 39 most of these things are recorded.
40
12:54:49 41 No. This was being done through the SDU; is that
12:54:53 42 right?---That's correct.
43
12:54:54 44 Why was it being done through the SDU?---Well they would
12:54:59 45 have had the relationship with the human source.
46
12:55:05 47 You were using and tasking Ms Gobbo as a human source in

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12:55:08 1 her capacity as a lawyer?---No, I was using her as an
12:55:16 2 informer.
3
12:55:16 4 Using her as an informer, knowing that she was going to
12:55:19 5 speak to ██████████ in her capacity as a lawyer?---Yeah,
12:55:23 6 look, I'm not - as I say, I'm not 100 per cent sure about
12:55:28 7 that, who was representing him at that time, whether it was
12:55:31 8 her or whether he'd gone somewhere else. That's something
12:55:34 9 that Bateson could answer.
10
12:55:39 11 This process of going through the SDU meant that it was
12:55:43 12 intended that public interest immunity would be claimed and
12:55:45 13 this would never be disclosed?---That was certainly not the
12:55:47 14 intent.
15
12:55:48 16 Sorry?---That was never our intention.
17
12:55:50 18 Was it your intention to disclose this process to someone
12:55:55 19 down the track?---No, it didn't set out that way. But I
12:56:00 20 mean these things were all discoverable, there were diary
12:56:07 21 entries and documents in relation to all of them at any
12:56:10 22 stage.
23
12:56:10 24 How was anyone to discover this process?---In the normal
12:56:15 25 manner, I suppose.
26
12:56:16 27 How would that be?---In the court process.
28
12:56:18 29 If they happened to know the story they might be able to
12:56:21 30 issue a subpoena. If they happen to know that ██████████'s
12:56:25 31 lawyer happened to be an informer, extraordinary in itself,
12:56:29 32 then we could issue a subpoena?---Right.
33
12:56:34 34 How was it going to be disclosed, practically?---Yeah, I
12:56:37 35 didn't - as I say, I didn't contemplate that.
36
12:56:43 37 You would understand or would have expected even if someone
12:56:47 38 had have issued a subpoena that might hit on it, there'd be
12:56:53 39 a PII application, wouldn't there?---There would have been,
12:56:57 40 yes.
41
12:56:58 42 It would be vigorously opposed, disclosing this
12:57:02 43 material?---It would have been, yes.
44
12:57:04 45 Do you know if the court was ever informed that something
12:57:06 46 like this occurred so that the court could determine where
12:57:10 47 the public interest lay?---I don't know.

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1
12:57:18 2 Were the OPP ever told that this process was engaged
12:57:25 3 in?---I'm not sure but I have a note on the - I don't have
12:57:29 4 a memory of what it was about but on the 19th of April 2006
12:57:37 5 at 14:45 with Assistant Commissioner Overland at 565
12:57:44 6 Lonsdale Street, Melbourne, meeting with OPP Director
12:57:46 7 Mr Coghlan re strategic direction of Operation Posse.
8
12:57:53 9 This is the 19th at what time, sorry?---At 2.45 pm.
10
12:58:01 11 We may come back to that. I think that's probably going to
12:58:04 12 relate to [REDACTED] because I don't think that this process
12:58:10 13 with [REDACTED] related to the strategic direction of
12:58:14 14 Operation Posse?---All right.
15
12:58:16 16 Would you accept that?---It may not have.
17
12:58:19 18 Would you have informed the hierarchy, Mr Overland and
12:58:23 19 others, that you were sending Ms Gobbo in armed with this
12:58:30 20 transcript to [REDACTED] to have him think about the truth
12:58:34 21 of what he'd been telling the police?---Possibly not.
22
12:58:40 23 Why wouldn't you have told them?---I'm not sure. I don't
12:58:47 24 recall telling them. I don't have a note of telling him.
12:58:56 25 So it was a matter that the carriage of which sat with
12:59:00 26 Gavan Ryan and Stuart Bateson.
27
12:59:08 28 If we can go to p.253 of the ICRs please. You'll see there
12:59:26 29 at 8.30 Ms Gobbo, just down the bottom of that entry, she
12:59:32 30 tells the handler that she's going to see [REDACTED] and
12:59:37 31 [REDACTED] at the prison on Saturday, do you see
12:59:42 32 that?---Yes.
33
12:59:45 34 Would you think that that was a strange thing, that
12:59:50 35 Ms Gobbo was having access to a number of players in these
12:59:59 36 proceedings that were going on, that she was conducting
13:00:03 37 professional visits with [REDACTED] as well as [REDACTED]
13:00:12 38 [REDACTED]---[REDACTED] or - - -
39
13:00:15 40 She was going to - - - ?---Oh, sorry.
41
13:00:18 42 She says there, "I'm going on Saturday to the gaol. I'm
13:00:20 43 going to see [REDACTED] and I'm going to see [REDACTED]
13:00:23 44 [REDACTED]?---Right.
45
13:00:28 46 Do you think that that's odd that she's having
13:00:33 47 communications, professional communications, she's going

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13:00:35 1 there on a professional basis, with a number of players in
13:00:38 2 the proceedings?---No, I didn't recall it being odd. I
13:00:45 3 mean she would go to the prison in the normal course of her
13:00:48 4 business I'd imagine.
5
13:00:51 6 Did Purana have anything to say at any time about which
13:00:55 7 lawyers could have access to which prisoners?---I don't
13:00:59 8 believe so.
9
13:01:00 10 Was it ever the case that there were discussions with the
13:01:05 11 prison about it being appropriate or inappropriate for
13:01:07 12 particular lawyers to be able to see particular
13:01:10 13 prisoners?---I don't believe so.
14
13:01:14 15 Did Purana have discussions along the lines of particular
13:01:19 16 people having - not lawyers having access to
13:01:24 17 prisoners?---To the best of my memory, no.
18
13:01:29 19 Sorry?---To the best of my memory, no, at this point.
20
13:01:34 21 Would you have known, did you get updates about who was
13:01:37 22 visiting who at the prison?---We would have, yes.
23
13:01:40 24 And how often would you get those updates?---Oh, look, I
13:01:45 25 can't be sure. It might have been weekly, I'm not sure, I
13:01:48 26 mean - - -
27
13:01:49 28 Was this through Shane Kelly at Corrections?---Yeah, there
13:01:53 29 was a Corrections liaison point.
30
13:01:56 31 Shane Kelly was the liaison?---I believe so, yes.
32
13:02:00 33 Was it the case with particular prisoners of interest,
13:02:03 34 maybe [REDACTED], maybe [REDACTED] that you would get the
13:02:06 35 weekly updates as to who's been to visit them in the last
13:02:11 36 week or so?---I didn't. I think the tactical intelligence
13:02:15 37 office got it. It was something that was more, I suppose,
13:02:18 38 relevant to the Purana phase one than it was to my part in
13:02:22 39 it.
40
13:02:23 41 But that was information available as and when it was
13:02:27 42 needed?---Yes.
43
13:02:27 44 So Purana, someone in Purana would have known who Ms Gobbo
13:02:30 45 was visiting?---I'd imagine it'd be a matter of record.
46
13:02:43 47 You'll see just down the bottom there that there's a, at

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13:02:50 1 19:00 there's a meeting that takes place with Smith and
13:02:56 2 with White and Ms Gobbo later that night. There's a
13:03:01 3 debrief. It seems as though Green is also present from
13:03:06 4 that entry, do you see that?---Yes.
5
13:03:12 6 There's an audio transcript of that meeting and I won't
13:03:16 7 take you through the whole thing but I'll take you through
13:03:19 8 a little bit of it. It's VPL.0005.0097.0011. If we can go
13:03:36 9 to p.107. It might be actually the p.107 down the bottom.
13:03:57 10 Do you see about halfway down that page they ask Ms Gobbo
13:04:01 11 to sum up why she thought there was a stalemate with
13:04:05 12 [REDACTED] and there was then some discussion about her
13:04:10 13 views on that?---Yes.
14
13:04:19 15 As it goes on, and as I said we can scroll through, but she
13:04:24 16 expresses the view that at that stage Purana didn't know
13:04:28 17 whether to charge [REDACTED] with another murder and use
13:04:30 18 that against him and Purana didn't know whether to accept
13:04:39 19 [REDACTED] statements as being true, the couldn't
13:04:42 20 corroborate some of what he said and "she believed that
13:04:46 21 some of what [REDACTED] was saying was utter crap", and it
13:04:46 22 goes on?---Yes.
23
13:04:48 24 She indicated that Purana wanted [REDACTED] to take steps
13:04:51 25 particularly in relation to Mr Mokbel, that he hadn't done
13:04:56 26 that yet. Smith asked Ms Gobbo if she'd read the [REDACTED]
13:05:02 27 statements and she said she'd read most of them. He asked
13:05:06 28 her about the [REDACTED] matters and referred to
13:05:10 29 corroborating matters and Ms Gobbo said she knew about that
13:05:14 30 because she'd acted for him. Mr Smith referred to the fact
13:05:19 31 that [REDACTED] and [REDACTED] had similar versions, they
13:05:23 32 were telling a similar story. Ms Gobbo's response was, "We
13:05:29 33 can't give that much credence because [REDACTED] had
13:05:32 34 [REDACTED]'s statements for 18 months and after 18 months
13:05:35 35 that's when he made his own statement". Effectively of
13:05:38 36 course he's going to be similar to him because he had the
13:05:41 37 other statements to base it on?---Right.
38
13:05:47 39 Smith referred to [REDACTED]'s version not being in line
13:05:52 40 with the two versions and Ms Gobbo said she didn't really
13:05:57 41 know what [REDACTED]'s version was. Smith then spoke about
13:06:03 42 [REDACTED] saying that he'd tried to stop it, that he was
13:06:06 43 minimising his involvement. It seems that following that
13:06:11 44 Ms Gobbo is given the transcript to read and this is the
13:06:18 45 transcript that had been discussed that I've just taken you
13:06:21 46 through. At p.130 you see up the top there, she doesn't
13:06:36 47 think that [REDACTED] is guilty of a double murder for [REDACTED]

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13:06:40 1 and [REDACTED], he might be guilty of being a conspiracy or an
13:06:45 2 accessory before the fact. She refers to [REDACTED]
13:06:49 3 statement where he said that [REDACTED] had said words to
13:06:53 4 the effect, "Put two in his head for me", and those not
13:06:57 5 being the type of words that [REDACTED] would say and
13:07:00 6 Bateson would know that. She said it would be exactly the
13:07:03 7 type of thing though that [REDACTED] would say. If we go to 136.
13:07:10 8 She expresses the view that [REDACTED] version was true,
13:07:15 9 in whatever respect she's referring to at that time, and
13:07:18 10 [REDACTED] version is wrong. She sees great irony -
13:07:25 11 sorry, if we go then to p.150. You might appreciate when
13:07:34 12 you see some of the words on the screen there that what
13:07:39 13 she's doing is reading through this transcript and I've
13:07:42 14 just taken you through some aspects of the transcript so
13:07:45 15 you might recognise some of those words?---Yes.

16
13:07:48 17 So she's reading it out loud, along with the handlers and
13:07:53 18 Mr White in the room, do you see that?---Yes. When you
13:08:00 19 talk about transcript, the transcript you're referring to
13:08:06 20 with myself and Bateson, is that what you're talking about?

21
13:08:10 22 Yes. So she has been given access, as was anticipated and
13:08:15 23 decided between you and Bateson and Ryan, that she's going
13:08:18 24 to be given edited transcript to go along to try and
13:08:21 25 convince [REDACTED] to tell the truth?---But I don't think
13:08:28 26 there was any version in that transcript, from what I've
13:08:31 27 seen of it, in relation to the commission of any offence.
13:08:38 28 I think it was more a discussion around whether he was
13:08:40 29 going to cooperate or not.

30
13:08:42 31 Those are the aspects of the transcript that I took you to.
13:08:45 32 Those transcripts, you might appreciate, were well over 100
13:08:49 33 pages long and there were discussions about the facts of
13:08:52 34 the offence. I didn't take you through all of those
13:08:54 35 matters, otherwise we might be here for a lot
13:08:57 36 longer?---Right.

37
13:08:57 38 But she's given access to that transcript. She's come
13:09:03 39 along to this covert meeting with the SDU?---Right.

40
13:09:07 41 She's reading through that transcript, as you can see now,
13:09:10 42 and she's making comments on it as she goes with the SDU.
13:09:17 43 You see there she's reading through that part of the
13:09:20 44 transcript and she comes to see great irony in the fact
13:09:26 45 that [REDACTED] is telling you and Mr Bateson that he
13:09:32 46 believed that she'd rather help the police out than help
13:09:36 47 what's going on out there, do you see that? "What an

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13:09:39 1 ironic him for to say", Bateson - do you see that, where
13:09:47 2 the cursor is?--Yes, yes.
3
13:09:51 4 "I've got a gut feeling she'd rather help you out than help
13:09:55 5 what's going on out there". Then she comments, "What an
13:10:01 6 ironic thing for him to say". Then Bateson: "I don't know
13:10:05 7 about that, but I think she's honest". "Isn't it funny for
13:10:09 8 him to be saying that", a bit of laughter?--Yes.
9
13:10:15 10 A couple of pages later at p.152, you see up the top there
13:10:29 11 there's reference there to her acknowledging - there's a
13:10:35 12 discussion about Bateson having in one sense a vested
13:10:38 13 interest in her acting for ██████████ and in another sense
13:10:41 14 steering her away because of the risk of compromise and it
13:10:44 15 being a bit of a delicate balance?--Right.
16
13:10:53 17 There's a reference at p.154 to her expressing the view
13:10:58 18 that she didn't think that ██████████ was lying but just
13:11:01 19 that he wasn't telling the entire truth. Page 157, she
13:11:15 20 doesn't know how Bateson keeps saying that ██████████ is the
13:11:18 21 principal. Smith refers to ██████████ supplying the gun and
13:11:22 22 knowing why it was supplied and being involved in the
13:11:25 23 planning and preparation with ██████████ and ██████████ and Gobbo
13:11:29 24 said, "Yeah, but that's all ██████████ story". Then Smith
13:11:34 25 said, "These are the points that Bateson brought up with
13:11:36 26 him", but Gobbo was not happy with it. At p.159 you see
13:12:08 27 right from the top, "Why is he saying on that basis he
13:12:13 28 still could have been the principal offender?" She says,
13:12:16 29 "It's not right. He ██████████. He's not pleading
13:12:19 30 guilty to murder". There was talk about whether ██████████
13:12:23 31 ██████████ to someone who ██████████ to seriously injure or
13:12:30 32 murder someone would make you guilty of a double murder, do
13:12:33 33 you see that?--Yes.
34
13:12:34 35 Page 161. Mr Smith says that, "Unless ██████████ starts
13:12:40 36 telling more of the truth they", being Purana, "were not
13:12:44 37 going to deal with him"?--Yes, I see that.
38
13:12:49 39 Do you expect that those are things that Purana have
13:12:53 40 communicated to the SDU so that Ms Gobbo might then take
13:12:57 41 them through to ██████████ when she speaks to him?--It
13:13:03 42 would appear that information's been provided to them, yes.
43
13:13:08 44 At p.162 you'll see halfway down the page Mr White saying
13:13:17 45 to Ms Gobbo, "If anybody can get him to tell the truth it
13:13:20 46 will be you. Now is that in his own interests? We don't
13:13:26 47 know enough about it. You would know more about that". Do

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13:13:29 1 you see that?---Yes.
2
13:13:37 3 If we go over the page Mr White is saying for Ms Gobbo not
13:13:48 4 to read anything more into this than the fact that from an
13:13:53 5 investigator's point of view there's an opportunity to get
13:13:55 6 the truth out of [REDACTED]. He referred to them, the
13:13:59 7 investigators, needing to explore it as far as they can and
13:14:02 8 if Ms Gobbo can help them do that all well and good. Do
13:14:05 9 you see that?---Yes.
10
13:14:06 11 He refers then to [REDACTED] ... and she says, "That's why
13:14:26 12 I'm saying I need to know, I need to - look, it's a
13:14:28 13 different situation. [REDACTED] was much easier for that
13:14:31 14 because he was gone for all money for murder. So there's
13:14:34 15 the starting point, it's a starting point for him". Do you
13:14:41 16 see that?---Yes, I do.
17
13:14:42 18 You understand the circumstances of [REDACTED]
13:14:45 19 apprehension and the evidence against him was pretty
13:14:50 20 strong?---Yes.
21
13:14:55 22 At p.164 they then discuss what [REDACTED] might be willing
13:15:01 23 to plead to in order to make a deal worthwhile. Mr Green
13:15:06 24 refers to Gobbo wanting to have an idea of what the least
13:15:10 25 amount of charges are in the mind of Mr Bateson and others.
13:15:15 26 At p.165 Mr Smith said he thought Ms Gobbo needed to speak
13:15:21 27 to Mr Bateson. White referred to the issue for them being
13:15:26 28 if she speaks to Bateson and speaks to [REDACTED] how much
13:15:31 29 longer she was going to be in the process after that point.
13:15:34 30 Ms Gobbo said she'd tried to walk out of it a number of
13:15:38 31 weeks ago. Do you see that?---Yes.
32
13:15:43 33 Page 166, there was reference to Bateson having saved her
13:15:47 34 at the committal where [REDACTED] gave evidence in relation
13:15:49 35 to disclosure, do you see that? "He promised me at the
13:16:00 36 time of the committal when the subpoenas were issued for
13:16:02 37 all sorts of stuff, and then I don't know whether or
13:16:04 38 exactly what happened but no one had anything to do with me
13:16:07 39 and [REDACTED] was the big target then. Then in the Supreme
13:16:12 40 Court the same thing happened. I know the judges read all
13:16:15 41 sorts of stuff, da da da", and on we go. At p.170 you'll
13:16:37 42 see down the bottom there Ms Gobbo referred to [REDACTED]
13:16:43 43 - sorry, I'm just - you see right down the bottom there
13:16:51 44 Ms Gobbo refers to [REDACTED] statements having her
13:16:54 45 amendments on them, and over the page, and that being a
13:16:58 46 critical thing to cross-examine about. Who made the
13:17:01 47 changes? Who worded it? And that never coming out, and

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13:17:05 1 her fear that that would come out subsequently at trial.
13:17:09 2 Do you see that?---Yes, I see that.
3
13:17:14 4 You accept that those are pretty crucial things in a trial.
13:17:19 5 If there's been some changes to a statement and it came out
13:17:21 6 that the changes had been made by a person other than the
13:17:25 7 statement maker, it would be a pretty crucial thing at
13:17:29 8 trial, wouldn't it?---Well it would. It would depend on
13:17:32 9 whether it was made with the person's consent who was
13:17:36 10 making the statement I'd imagine.
11
13:17:38 12 It would be a pretty crucial thing to cross-examine about
13:17:41 13 to try and find out if the statement maker was influenced
13:17:44 14 in any way in making those changes?---Yes, it'd have to be
13:17:49 15 a statement made of their own free-will.
16
13:17:51 17 Yes. Page 171. Ms Gobbo refers to Mark Hatt's evidence
13:17:59 18 and him not saying anything, but he's possibly having not
13:18:06 19 been asked just the right questions and she spoke about him
13:18:09 20 coming to her chambers with the statements. That might be
13:18:13 21 over the page. We're at the end of the - or p.175. We
13:18:24 22 have Mr Smith telling Ms Gobbo that Mr Bateson would ring
13:18:28 23 her the next day?---Right.
24
13:18:35 25 That might be an appropriate time, Commissioner.
26
13:18:38 27 COMMISSIONER: Have you finished with that one?
28
29 MS TITTENSOR: Yes, Commissioner.
30
13:18:41 31 COMMISSIONER: Did you want to tender that?
32
13:18:46 33 MS TITTENSOR: It may already be tendered? If it hasn't
34 been I will tender it.
35
13:18:47 36 COMMISSIONER: It's been tendered already?
13:18:47 37
13:18:48 38 MS TITTENSOR: Yes, it's a transcript of an audio recorded
13:18:50 39 meeting on 20 April, Commissioner.
40
13:18:52 41 COMMISSIONER: Right, thank you.
13:18:53 42
13:18:54 43 MR HOLT: I think it has, Commissioner. We'll check over
13:18:56 44 lunch.
45
13:18:57 46 COMMISSIONER: Thank you. We'll adjourn until 2 o'clock,
13:19:00 47 thank you.

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<(THE WITNESS WITHDREW)

LUNCHEON ADJOURNMENT

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13:56:44 1 UPON RESUMING AT 2.03 PM:

14:03:46 2
14:03:49 3 <JAMES MICHAEL O'BRIEN, recalled:

14:03:54 4
14:03:54 5 COMMISSIONER: Yes Ms Tittensor.

14:03:55 6
14:03:55 7 MS TITTENSOR: Thank you, Commissioner. If we can bring up
14:03:58 8 the SML for 21 April 2006, please. Mr O'Brien, you'll see
14:04:26 9 there in the second box down there's an entry in relation
14:04:36 10 to Ms Gobbo being subpoenaed or summoned to court to
14:04:37 11 explain her contact with [REDACTED]. In brackets it says,
14:04:43 12 "(Human source assisting with plea)"?---Yes.

14:04:44 13
14:04:45 14 It then goes on, "Possible conflict with Zarah Garde-Wilson
14:04:52 15 who is representing Williams and spreading rumours about
14:04:56 16 human source working for other side because talking to
14:05:00 17 [REDACTED], do you see that?---Yes.

14:05:03 18
14:05:04 19 Do you have a recollection of this episode?---I can check
14:05:07 20 my diary.

14:05:08 21
14:05:09 22 While you're doing that, if you can bring up the ICR for
14:05:16 23 p.257, please?---Sorry, 21 April 2006, is it, we're talking
14:05:40 24 about?

14:05:41 25
14:05:41 26 Yes?---No, I've got no note of that.

14:05:48 27
14:05:51 28 In the ICR you'll see on the screen before you, you'll see
14:05:56 29 at 12.58 that the handlers received a call. "Ms Gobbo had
14:06:03 30 just spoken to Vaile Anscombe of the OPP re [REDACTED] and
14:06:08 31 [REDACTED] matters. They, the OPP, had received copies of
14:06:13 32 letters forwarded from the prison with Zarah Garde-Wilson
14:06:18 33 trying to arrange a meeting with [REDACTED], [REDACTED] and
14:06:22 34 Ms Gobbo." You'll recall that there'd been some discussion
14:06:27 35 about that with handlers in the days before that I've taken
14:06:33 36 you through?---Yes.

14:06:34 37
14:06:34 38 And in fact there'd been, it seems, an intended meeting on
14:06:39 39 18 April which had been cancelled at the prison, do you
14:06:45 40 recall that?---Yes. I remember you showing me some
14:06:51 41 documents.

14:06:52 42
14:06:52 43 It was intended it had gone ahead on 18 April but she told
14:06:56 44 the handler that meeting was cancelled due to a lack of
14:06:59 45 staff at the prison?---Right.

14:07:01 46
14:07:01 47 So on this day it's apparent that the OPP have become aware

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14:07:07 1 because the prison have forwarded them letters from Zarah
14:07:13 2 Garde-Wilson trying to arrange that meeting with the four
14:07:15 3 of them and Ms Gobbo advised Ms Anscombe that that meeting,
14:07:21 4 or that letter was sent without her knowledge or consent.
14:07:24 5 Do you see that?---Sorry.

14:07:31 6
14:07:31 7 Down below that at 3.54 pm there's another call to the
14:07:36 8 handler that Ms Gobbo has just received a subpoena to
14:07:39 9 attend the Supreme Court before Justice Betty King. She is
14:07:43 10 to appear there in five minutes re [REDACTED] and [REDACTED]
14:07:47 11 [REDACTED] and Zarah Garde-Wilson had also been subpoenaed
14:07:51 12 and she was in a panic and didn't know what to do about
14:07:54 13 it?---Yes.

14:07:55 14
14:07:55 15 Then there is a notation there was immediate contact with
14:07:58 16 you, that you were unaware of the subpoenas and stated that
14:08:03 17 Zarah Garde-Wilson and [REDACTED] were very suspicious
14:08:07 18 of Ms Gobbo's loyalties because of the [REDACTED] situation
14:08:11 19 and the direct quote was, "She's for them not for us".
14:08:16 20 There is a notation there that Ms Garde-Wilson had visited
14:08:22 21 Williams earlier that day?---Yes, I see that note there.

14:08:26 22
14:08:26 23 Do you have a recollection of that conversation with the
14:08:32 24 SDU about Ms Gobbo being summoned to court?---No, I don't.

14:08:36 25
14:08:36 26 Are you aware that Justice King expressed concern about
14:08:41 27 both Zarah Garde-Wilson and Ms Gobbo having conflicts and
14:08:46 28 not being able to act in relation to either of those
14:08:49 29 matters?---No, I'm not.

14:08:50 30
14:08:51 31 Are you aware that Justice King confirmed in court that day
14:08:56 32 with Ms Gobbo that she was not in fact counsel representing
14:09:00 33 [REDACTED] and that Ms Gobbo told Justice King that she
14:09:05 34 couldn't be as she'd acted for one of the witnesses against
14:09:08 35 him?---No, I'm not. As I say I didn't have carriage of
14:09:13 36 this matter.

14:09:15 37
14:09:15 38 But it seems from this note though that you're being
14:09:18 39 advised about those issues?---I don't believe I was
14:09:23 40 advised. As I say my diary is here with my notes in it. I
14:09:28 41 have no reason to not write that down if I was advised of
14:09:31 42 that fact. I don't have a note of it.

14:09:33 43
14:09:33 44 Do you accept the accuracy of that contemporaneous note
14:09:37 45 that it seems you were advised?---No, I don't.

14:09:40 46
14:09:42 47 Do you accept that on a number of other occasions there's

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14:09:45 1 been entries about contact with you that in certain
14:09:49 2 respects haven't made it into your diaries?--As I say, I
14:09:54 3 didn't write this document. I don't know, these people may
14:09:58 4 have actually spoken, whoever it is, may have spoken to
14:10:02 5 Mr Bateson or may have spoken to somebody who was involved
14:10:04 6 in the matter.

14:10:05 7
14:10:05 8 It certainly it seems as though Mr Bateson does become
14:10:09 9 aware of it, because at 5.45 pm he has a note in his diary
14:10:14 10 to the effect that - well it says, "Inquiries re court
14:10:17 11 hearing involving Zarah Garde-Wilson and Nicola Gobbo re
14:10:17 12 conflict of interest"?--Right.

14:10:20 13
14:10:22 14 Is it likely that you might have passed on a message to
14:10:25 15 him?--No. As I say I would have had a note of it, I
14:10:28 16 believe, and they've probably dealt directly with him.

14:10:30 17
14:10:31 18 One would expect Mr Bateson making those inquiries, as he
14:10:37 19 indicates in his diary, would have been told about the
14:10:40 20 court expressing serious concern about Ms Gobbo being in
14:10:45 21 conflict with ██████████ and being reassured that she's not
14:10:49 22 acting for ██████████--Mr Bateson may have been, I can't
14:10:53 23 answer for him.

14:10:54 24
14:10:56 25 One would expect that if he was told that, that Victoria
14:11:01 26 Police and that he would not seek to subvert the justice
14:11:05 27 system and continue to use Ms Gobbo to deal with ██████████
14:11:10 28 ██████--As I say I don't have any knowledge. I don't have a
14:11:14 29 note of it. Mr Bateson was dealing with the matter, it
14:11:17 30 would be a matter Mr Bateson to answer for.

14:11:20 31
14:11:21 32 You would expect Mr Bateson to have known that the court
14:11:24 33 had expressed concern that Ms Gobbo was not acting for
14:11:27 34 ██████████ in relation to those matters, that he wouldn't
14:11:30 35 have continued to deal with Ms Gobbo in respect of ██████████
14:11:34 36 ██████--Yes, he would have taken whatever action was required.

14:11:37 37
14:11:41 38 Perhaps if we can bring up Mr Bateson's diary,
14:11:49 39 VPL.0005.0058.0346. You'll see down the bottom there, if
14:12:36 40 we go to just a bit more of the top one there so we get the
14:12:40 41 time, so 16:45, we've got Bateson returning to the office,
14:12:47 42 RT0, and then he says, "Inquiries re court hearing
14:12:51 43 involving Zarah Garde-Wilson and Nicola Gobbo re conflict
14:12:55 44 of interest", do you see that?--Yes.

14:12:56 45
14:12:56 46 Less than two hours later, at about 6.30 pm he says, "Speak
14:13:01 47 to 3838 re ██████████ possibly pleading guilty and giving

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14:13:07 1 evidence", do you see that?---Yes, I do.
14:13:09 2
14:13:10 3 So there's a number of points out of that. First of all,
14:13:13 4 do you see in the first entry he refers to Nicola Gobbo by
14:13:18 5 name?---Yes.
14:13:21 6
14:13:21 7 And that's in respect of her having a conflict of interest
14:13:25 8 in respect of [REDACTED] ---Yes.
14:13:27 9
14:13:28 10 And in the second entry he refers to Nicola Gobbo using a
14:13:33 11 human source number in respect of his dealing with her
14:13:37 12 about [REDACTED] ---I can see that, yes.
14:13:39 13
14:13:41 14 Do you think that that might be for the purpose of avoiding
14:13:45 15 disclosure of the fact that he is dealing with Ms Gobbo in
14:13:50 16 relation to [REDACTED] ---I can't make that assumption.
14:13:56 17
14:13:56 18 You would expect, given the fact that he's used an informer
14:14:00 19 number, that if there was any possibility of his diaries
14:14:05 20 being called upon, there would have been a strenuous
14:14:09 21 objection to the release of that material on the basis of
14:14:12 22 public interest immunity, you would expect that?---I'm not
14:14:16 23 sure why he made that entry. I can't answer for
14:14:20 24 Mr Bateson.
14:14:23 25
14:14:36 26 Ms Gobbo's got a note in her court book in relation to that
14:14:42 27 conversation with Mr Bateson. It's at MIN.0001.0014.0785
14:14:56 28 at 798. Do you see over on the left-hand side there's a
14:15:31 29 note in relation to - it appears to be a note in relation
14:15:34 30 to her appearance before Justice King that day and it says,
14:15:37 31 "Me not appearing at trial for [REDACTED] ---Yes, I do.
14:15:43 32
14:15:50 33 Over the other side of the page, it's got "Bateson" and an
14:15:54 34 arrow to, [REDACTED], didn't know it to be used for.
14:16:00 35 Tried to stop it, no planning or involvement in it". A
14:16:05 36 dash to, "Plead guilty to murder of one only" and then
14:16:09 37 another arrow and, "Not sure about other charges". Do you
14:16:14 38 see that?---I do, yes.
14:16:15 39
14:16:16 40 It's apparent they've had a discussion about certainly what
14:16:21 41 [REDACTED] is saying about the facts of the matter and about
14:16:25 42 the possible resolution as to charges. Do you accept
14:16:32 43 that?---That's what it appears to be, yes.
14:16:34 44
14:16:36 45 I tender that, Commissioner.
14:16:38 46
14:16:44 47 #EXHIBIT RC477A - (Confidential) Court book of Nicola Gobbo

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14:16:48 1 of 21/04/06.
14:16:55 2
14:16:57 3 #EXHIBIT RC477B - (Redacted version.)
14:17:00 4
14:17:00 5 WITNESS: Just on that, on that day, I just make this
14:17:03 6 observation, that I started work at 6.12 am that day and
14:17:07 7 finished at 20 to 11 that night in relation to other
14:17:12 8 matters. I made a number of notations.
14:17:16 9
14:17:16 10 MS TITTENSOR: You've had a long day on that day?---Yes,
14:17:19 11 that was one of the sorts of days I used to have regularly.
14:17:24 12
14:17:25 13 Do you say that Mr Bateson would be engaging in this
14:17:30 14 contact with Ms Gobbo without your imprimatur?---Yes, he
14:17:36 15 was a Detective Acting Senior Sergeant. He would run the
14:17:40 16 case - he was running that case.
14:17:41 17
14:17:42 18 You'd clearly expressed some concern about Ms Gobbo having
14:17:45 19 any dealings in relation to this matter?---Yes.
14:17:47 20
14:17:49 21 Had you told Bateson that he was to have no dealings with
14:17:53 22 Ms Gobbo?---No, I hadn't. Bateson clearly had carriage of
14:18:05 23 this matter some time well prior to me ever arriving at
14:18:10 24 Purana Task Force.
14:18:12 25
14:18:15 26 If we can go to the ICR at p.258, please. You'll see at
14:18:38 27 9.12 Ms Gobbo reports to her handler that she's about to go
14:18:42 28 into the prison to see [REDACTED] is that right?---Yes.
14:18:47 29
14:18:48 30 Corrections records that the Commission has indicates that
14:18:51 31 she in fact went in and conducted professional visits with
14:18:56 32 both [REDACTED] and [REDACTED] on that morning?---Right.
14:18:59 33
14:19:01 34 She made notes of a meeting with [REDACTED] relating,
14:19:08 35 they had a discussion about Mark Smith. That was one of
14:19:11 36 the matters that had been discussed with [REDACTED]. They
14:19:14 37 discussed the mention in the matter of Goussis. They
14:19:19 38 discussed the Miechel trial. They discussed whether there
14:19:22 39 would be a challenge by a particular barrister to [REDACTED]
14:19:26 40 [REDACTED] statement in relation to Tony. They discussed that
14:19:31 41 Bateson had told [REDACTED] that he didn't believe his
14:19:35 42 version in relation to [REDACTED] killing [REDACTED] and who
14:19:41 43 killed [REDACTED] and that [REDACTED] will have said that [REDACTED]
14:19:45 44 [REDACTED] did it. I know that's all a bit of a jumble, I'm sorry
14:19:49 45 about that. On that day they also discussed Bezzina's
14:19:55 46 arrest, presumably of Mr Williams back on 9 June 2004 in
14:19:59 47 relation to who had killed the Hodsons. There's a note in

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14:20:05 1 her court book to the effect that, "Happy for ██████████ to
14:20:09 2 help himself but he couldn't do it because he couldn't live
14:20:13 3 with himself", and then there's some talk about rumours and
14:20:17 4 gossip. She has this conversation with ██████████ and
14:20:22 5 then it seems she goes and has a meeting or a conference
14:20:26 6 with ██████████. There's references to ██████████ a
14:20:30 7 few months before, in brackets to ██████████ That the appointment
14:20:37 8 for Friday at ██████████ got changed to Saturday, and
14:20:42 9 told him to stop because ██████████ were there. ██████████
14:20:45 10 had said okay, that was he angry as all fuck with ██████████
14:20:49 11 ██████████ and to look after ██████████ house. Do you
14:20:52 12 understand that there were ██████████ in relation to
14:20:55 13 ██████████ which involved some ██████████ as
14:21:01 14 well?---May have been, I'm not - I don't have a
14:21:04 15 recollection of all the detail.

14:21:06 16
14:21:13 17 You'll see on that ICR at 12.30 she reports back to the
14:21:19 18 handler that, "██████████ is in a bit of a mental slump.
14:21:23 19 He's been offered psyche help but declined the same and is
14:21:26 20 very depressed". Do you see that?---Yes.

14:21:29 21
14:21:32 22 Go to p.261. At 12.35, down towards the bottom of that
14:21:45 23 entry. "Gobbo told her handler that ██████████ had called
14:21:49 24 her and wanted her to speak to the barrister who'd
14:21:56 25 previously appeared for him at committal, Colin Lovitt, and
14:22:00 26 to get his view as to whether ██████████ was fucked". And
14:22:04 27 she said, "If he was told this, if ██████████ was told that
14:22:08 28 he was, he would likely assist Purana. She believed that
14:22:12 29 Lovitt would affirm this and she told the handlers that
14:22:17 30 ██████████ was very depressed and that he needed a push to
14:22:21 31 come on board totally". Do you see that?---Yes, I do.

14:22:25 32
14:22:28 33 Underneath that she's reporting the same thing again and
14:22:32 34 that ██████████ has told ██████████ to leave him as he expects
14:22:37 35 to get at least ██████████ years if he helps out the police, or
14:22:41 36 life if he doesn't?---Yes, I see that.

14:22:44 37
14:22:48 38 If we go to p.343, we're skipping ahead now. This is 6
14:22:58 39 June. We've gone from 23 April 2006 and we're now on 6
14:23:11 40 June 2006. You'll see about halfway down that page in
14:23:17 41 respect of ██████████ there's an entry. That the solicitor
14:23:22 42 Jim Valos had tried to talk ██████████ out of pleading
14:23:25 43 guilty. But Ms Gobbo had a meeting with the DPP to arrange
14:23:32 44 the basis of a plea and that the plea's going to be heard
14:23:35 45 next Wednesday or Thursday and then ██████████ would make
14:23:39 46 statements and that that would take weeks and his
14:23:42 47 sentencing would be after everything had finished. Do you

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14:23:44 1 see that?---I see the note, yes.
14:23:46 2
14:23:52 3 It may be inferred from that that Mr Valos, having sought
14:24:00 4 the advice of Lovitt QC, who had previously represented
14:24:04 5 ██████████ believed that he might have a viable defence
14:24:09 6 after all and tried to talk him out of pleading guilty in
14:24:14 7 the circumstances?---I'm unaware of that, but it's quite
14:24:18 8 possible. As I say, I'm unaware of it.
14:24:20 9
14:24:25 10 Certainly with Ms Gobbo representing him he wasn't getting
14:24:28 11 any independent impartial advice in that respect, was
14:24:31 12 he?---No.
14:24:32 13
14:24:44 14 On 16 June 2006 there was another meeting at the prison.
14:24:51 15 You weren't involved this time. Bateson and Kerley visited
14:24:56 16 ██████████ If this transcript can be brought up,
14:25:07 17 VPL.0005.0062.0792. If we could go to p.12. Before we do
14:25:33 18 that, you'll see up the top that's a transcript of a
14:25:36 19 conversation between Bateson, Kerley and ██████████ on 16
14:25:41 20 June 2006. Do you accept that?---Yes.
14:25:44 21
14:25:46 22 Page 12. He says down the bottom that ██████████ says that
14:26:06 23 the solicitors don't know that he's called in the police,
14:26:10 24 do you see that?---Yes.
14:26:17 25
14:26:17 26 Then if we keep going over to the next page, Bateson is
14:26:24 27 saying, "Okay, well we won't say anything" and Kerley is
14:26:28 28 saying, "I wondered why you did it that way". And ██████████
14:26:34 29 ██████████ says, "Jim's a lovely bloke but Jim tells Nicola
14:26:39 30 everything, I just don't feel safe with Nicola, cause what
14:26:43 31 I want to do, I want to cop it sweet", just want ██████████
14:26:47 32 left alone, "If it can be left alone, I don't know". And
14:26:49 33 then Bateson says, "From my point of view I certainly
14:26:53 34 wouldn't make any recommendation to my boss or the DPP
14:26:56 35 without something in writing or on tape, that's the first
14:26:58 36 step". So it seems apparent that at that point ██████████
14:27:09 37 expressing the want to plead guilty and to have the charges
14:27:12 38 against ██████████ or whatever ██████████ were against ██████████
14:27:15 39 ██████████ withdrawn so ██████████ was left alone, do you understand
14:27:18 40 that?---Yes, I do.
14:27:19 41
14:27:22 42 There doesn't appear to be in that conversation any further
14:27:26 43 reference to his representation. Go back to the ICRs at
14:27:31 44 p.336. Sorry, I tender that, Commissioner.
14:27:38 45
14:27:40 46 #EXHIBIT RC478A - (Confidential) Transcript between
14:27:42 47 Bateson, Kerley and ██████████ at the

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14:27:44 1 prison on 16/06/06. 487
14:27:50 2
14:27:52 3 #EXHIBIT RC478B - (Redacted version.)
14:27:55 4
14:28:03 5 To be fair to you, Mr O'Brien, I'll make it clear,
14:28:05 6 obviously I'm not suggesting that you were involved in that
14:28:08 7 conversation at all or in anything immediately subsequent
14:28:11 8 because having had a look at your diaries I understand that
14:28:15 9 from about mid-June you took some leave and then I think
14:28:19 10 you were in New South Wales doing some kind of
14:28:22 11 course?---Yes.
14:28:23 12
14:28:32 13 At 336, on 19 June, you'll see up towards the top, the
14:28:37 14 second paragraph there, [REDACTED] is indicating, or
14:28:42 15 Ms Gobbo is indicating that [REDACTED] has lost faith in
14:28:46 16 Lovitt. He has no money and can't get Legal Aid funding
14:28:50 17 and he just wants to plead guilty. And that Ms Gobbo was
14:28:54 18 wanting investigators to speak to [REDACTED] before he goes
14:28:58 19 to court next week. Do you see that?---Yes.
14:29:01 20
14:29:02 21 Detective Inspector Ryan of Purana is advised in relation
14:29:05 22 to that?---Yes, that's correct.
14:29:09 23
14:29:12 24 Detective Inspector Ryan said he was spoken to last Friday
14:29:17 25 and was aware of the plea of guilty and then there's a
14:29:22 26 reference to the sale of a particular house?---Yes.
14:29:24 27
14:29:27 28 Would it be the case that Detective Inspector Ryan was
14:29:31 29 acting in charge of Purana whilst you were away?---That was
14:29:34 30 the normal course of events.
14:29:36 31
14:29:38 32 Whilst you were away would you keep in touch and keep
14:29:42 33 updated with what was going on?---No, I was generally
14:29:45 34 sitting in a classroom for probably about seven or eight
14:29:48 35 hours and I was up writing papers until about one in the
14:29:51 36 morning.
14:29:51 37
14:29:52 38 I think for part of this you were on rec leave and then
14:29:55 39 another part you were doing the course that you were doing.
14:30:01 40 Nevertheless, so that once you'd come back from leave
14:30:04 41 you're not just catching up on everything. Do you get
14:30:08 42 updates throughout that period of time, or are you just
14:30:12 43 completely removed?---No, completely removed.
14:30:15 44
14:30:15 45 Is it the case that once you get back from leave or the
14:30:18 46 course that you're then given a briefing of what's gone on
14:30:22 47 and where things are up to?---Yeah, it would just be a hand

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14:30:27 1 over of what the current situation was with operations.
14:30:32 2
14:30:33 3 If we go to the next transcript on 22 June 2006, it's
14:30:37 4 VPL.0005.0062.0305. Do you see that that's a transcript of
14:30:58 5 a conversation between Bateson, Kerley and [REDACTED] and it
14:31:05 6 appears for some portion of it there might be a prison
14:31:10 7 warden also present?--Yes.
14:31:14 8
14:31:14 9 This is a discussion, just to short-circuit things a bit
14:31:18 10 for you, this is a discussion with him again. It is a
14:31:22 11 discussion about the type of sentence that he might get.
14:31:26 12 There is a reference to Mr Goussis having got 15 years
14:31:29 13 after a trial and he might get something less himself on a
14:31:32 14 plea. Whether he might get ten years if he assisted like
14:31:39 15 [REDACTED] and whether it was worth his becoming a target
14:31:45 16 for the sake of getting three to four years off his
14:31:48 17 sentence. Whether it was worth putting [REDACTED] at risk
14:31:51 18 for those matters. There's reference in that conversation
14:31:59 19 to [REDACTED] talking in riddles. I think Ms Kerley,
14:32:06 20 without taking you right through the conversation,
14:32:10 21 Ms Kerley refers to him talking in riddles and [REDACTED]
14:32:14 22 said yes, he agreed he was pretty hard to understand but
14:32:17 23 that Nicola understood him. And Bateson asked [REDACTED] if
14:32:21 24 he was happy for him to talk to Nicola about the matter and
14:32:24 25 [REDACTED] asked if Bateson thought that Nicola would say
14:32:27 26 anything. Bateson tells him he thought that Nicola was a
14:32:31 27 very honest barrister and he thought that she would do the
14:32:34 28 right thing. [REDACTED] said that's why he wanted her
14:32:38 29 because she knew what he was all about and she understood
14:32:41 30 him and Bateson responded, "I got no problems with Nicola".
14:32:45 31 He said, "She's good, I think you can trust her". [REDACTED]
14:32:50 32 [REDACTED] "Is that right?" And Bateson said, "Yeah". Again, that
14:32:58 33 was an opportunity, would you agree, for Mr Bateson, for
14:33:04 34 someone in Victoria Police to tell [REDACTED] that she
14:33:06 35 wasn't independent and that he needed to get independent
14:33:10 36 advice?--Certainly it was an opportunity to tell him to
14:33:14 37 get other advice, I don't know about - - -
14:33:16 38
14:33:16 39 Do you agree he should have been told that?--Possibly,
14:33:19 40 yes. He should have been told to get independent advice.
14:33:23 41
14:33:29 42 This was someone that was about to make a decision to plead
14:33:32 43 guilty to murder, to give evidence against some pretty
14:33:38 44 heavy people and to have a target, as he says, on his back
14:33:42 45 for the rest of his life. It's imperative, isn't it, that
14:33:46 46 any advice that he got was impartial and
14:33:51 47 independent?--Yes. As I say, I don't know what other

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14:33:54 1 advice he got, or ended up getting.

14:33:57 2
14:33:59 3 It appears from the material that we've gone through, by
14:34:02 4 that stage the advice that he was getting from Mr Valos was
14:34:06 5 don't plead guilty?---Right.

14:34:07 6
14:34:16 7 On the same date, according to Bateson's diary chronology,
14:34:22 8 he went to a meeting with Mr Overland and Superintendent
14:34:29 9 Grant. It was resolved at that stage that [REDACTED] was
14:34:32 10 not a witness of truth. Mr Bateson called Ms Gobbo and
14:34:38 11 told her that they didn't believe [REDACTED] that he was
14:34:43 12 trying to suggest that he was, he'd tried to stop the
14:34:47 13 murder, and that they would discuss that with the OPP, what
14:34:53 14 was to happen from there?---Right.

14:34:55 15
14:34:56 16 Do you recall being updated about these kinds of things
14:35:00 17 when you got back?---No, I wouldn't have been in the
14:35:05 18 general course. As I say, I would have been given where
14:35:08 19 the operations were at that stage and this was a matter
14:35:10 20 that had been ongoing for some time.

14:35:13 21
14:35:13 22 The following date there was a meeting with the OPP with
14:35:18 23 Crown Prosecutors Mr Horgan and Mr Tinney. It appears to
14:35:26 24 have been resolved at that meeting that they were not
14:35:28 25 interested in [REDACTED] evidence in respect of the [REDACTED]
14:35:35 26 and [REDACTED] murders, however that [REDACTED] would get a
14:35:37 27 discount if he wanted to provide some assistance in
14:35:40 28 relation to other matters?---Right.

14:35:41 29
14:35:43 30 So it seems apparent following that that there was a plea
14:35:47 31 deal arranged. If we can go to the ICR at p.341, please.
14:36:06 32 So this is that day, 23 June, you'll see at 16:10 Ms Gobbo
14:36:14 33 was reporting to the handler that when [REDACTED] pleads
14:36:17 34 guilty it will take weeks for Purana to take the statements
14:36:23 35 according to Detective Bateson. She says that she's seeing
14:36:28 36 [REDACTED] at the prison next Monday and she states that she
14:36:35 37 was right again in predicting what an individual would do,
14:36:39 38 referring to [REDACTED] presumably referring to [REDACTED]
14:36:44 39 rolling over and pleading. Do you see that?---Yes.

14:36:47 40
14:36:52 41 Page 343. You'll see there at 17:35 under the heading of
14:37:07 42 [REDACTED] that Ms Gobbo refers to the fact that solicitor
14:37:12 43 Jim Valos had tried to talk him out of pleading guilty.
14:37:22 44 That she was meeting with the DPP to arrange the basis of
14:37:26 45 the plea. Sorry, I might have done that before, I'm
14:37:34 46 repeating myself. Can I just go up and just check the date
14:37:38 47 for that, please.

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14:37:39 1
14:37:39 2 COMMISSIONER: 23 June.
14:37:42 3
14:37:42 4 MS TITTENSOR: That is 26 June. I might have referred to
14:37:44 5 that earlier out of place, Commissioner. In any case that
14:37:57 6 fits in now, that's 26 June, that there's a reference to
14:38:01 7 solicitor Valos tried to talk him out of pleading guilty.
14:38:06 8 And that the plea would take place the week after, do you
14:38:09 9 see that?---Yes.
14:38:10 10
14:38:11 11 On 28 June there's a meeting between Ms Gobbo and the DPP
14:38:20 12 and Crown Prosecutors Mr Horgan and Mr Tinney and it
14:38:27 13 settled that he would plead to the murder of ██████████
14:38:31 14 but not ██████████, there was some agreement as to
14:38:35 15 his role and his involvement. On ██████████ it seems ██████████
14:38:49 16 ██████████ was arraigned in the Supreme Court, investigators spoke
14:38:55 17 to him in the cells afterwards about his making a
14:38:59 18 statement. On that occasion it's apparent from some other
14:39:04 19 material that the Commission's got that ██████████ warned
14:39:08 20 that Carl Williams and Milad Mokbel believed that Ms Gobbo
14:39:12 21 was working for the police and that she needed to be
14:39:15 22 careful. Do you recall there being discussions from around
14:39:19 23 that time about threats to Ms Gobbo?---There was at some
14:39:24 24 point, "Be wary of Carl Williams".
14:39:33 25
14:39:33 26 Was there any discussion, do you recall, about the need to
14:39:38 27 get Ms Gobbo out of providing the police with
14:39:43 28 information?---Getting her out?
14:39:47 29
14:39:48 30 Yes?---Deactivating her?
14:39:50 31
14:39:51 32 Deactivating her?---Yes.
14:39:52 33
14:39:53 34 When did that start occurring to your recollection?---I've
14:39:59 35 referred to it in my statement. It was on a Sunday that I
14:40:04 36 met with Mr White.
14:40:13 37
14:40:14 38 While we're doing that, Commissioner, I tender that last
14:40:18 39 transcript of conversation. I don't think I did.
14:40:21 40
14:40:21 41 COMMISSIONER: That was the second transcript of 16 June?
14:40:26 42
14:40:26 43 MS TITTENSOR: Yes, Commissioner.
14:40:27 44
14:40:27 45 COMMISSIONER: Between Bateson, Kerley and ██████████
14:40:30 46
14:40:31 47 #EXHIBIT RC479A - (Confidential) Transcript between

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14:40:32 1 Bateson, Kerley and [REDACTED] 16/06/06.
14:40:32 2
14:40:33 3 #EXHIBIT RC479B - (Redacted version.)
14:40:49 4
14:40:49 5 MS TITTENSOR: Perhaps we can come back to that,
14:40:53 6 Mr O'Brien, if we can't hit upon it straight away?---22
14:40:59 7 April 2007.
14:41:00 8
14:41:00 9 So it's not for quite some time yet?---That's correct.
14:41:03 10
14:41:08 11 Over the weeks from around about 6 July Mr Bateson was
14:41:13 12 involved in coordinating the statement taking process for
14:41:16 13 [REDACTED] and, as I say, at around this time acknowledging
14:41:22 14 that you're either on leave or interstate?---That's right,
14:41:26 15 I was in Manly.
14:41:28 16
14:41:33 17 As you might expect there were various investigators
14:41:36 18 brought in to deal with the particular cases that they
14:41:40 19 might have had some involvement with that they wanted from
14:41:43 20 assistance from [REDACTED] in relation to?---Yes.
14:41:46 21
14:41:48 22 Did you become aware that throughout that period of
14:41:52 23 statement taking that Ms Gobbo was in communication with
14:41:56 24 [REDACTED] --I don't believe so.
14:42:00 25
14:42:00 26 That she was again involved in the statement process?---I'd
14:42:07 27 have to say check my notes but I think the work was
14:42:11 28 basically, all that work was split off and it was put under
14:42:15 29 Gavan Ryan, I maintained the work I was doing around the
14:42:18 30 drug issues.
14:42:18 31
14:42:19 32 Did you become involved, sorry, did you become aware though
14:42:22 33 that she was again provided with statements, that she
14:42:27 34 commented on them and seemed to be making amendments to
14:42:31 35 them prior to them being signed?---Not to the best of my
14:42:33 36 recollection.
14:42:34 37
14:42:37 38 What was the practice in respect of draft statements being
14:42:42 39 kept by investigators?---Not sure there was one that I'm
14:42:48 40 aware of.
14:42:49 41
14:42:49 42 Investigators would have been aware that any draft of a
14:42:54 43 statement would have been disclosable?---I'd imagine it
14:42:58 44 would be, yes.
14:42:59 45
14:43:00 46 Was it a practice within Victoria Police to not keep drafts
14:43:04 47 so that they couldn't be disclosed?---No, I don't think

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14:43:07 1 that's the case at all.
14:43:08 2
14:43:14 3 Do you know whether that was the case in any
14:43:18 4 respect?---I've got no recollection of that occurring.
14:43:21 5
14:43:23 6 Are you aware whether there were any drafts of [REDACTED]
14:43:27 7 statements that were ever provided to any defence?---Not
14:43:31 8 that I know of.
14:43:32 9
14:43:34 10 You accept if there were such drafts and they were called
14:43:40 11 upon, that they should have been provided?---Yes, if they
14:43:43 12 existed.
14:43:44 13
14:43:49 14 I'll just quickly take you through some further references
14:43:53 15 at p.352. On 7 July you'll see at 17:01 there's a
14:44:07 16 reference from a handler, "Received an SMS. Spoke to
14:44:11 17 [REDACTED] and wants to see Ms Gobbo before signs
14:44:16 18 statements. Purana will arrange". Do you see that?---Yes.
14:44:27 19
14:44:30 20 Down the page on 9 July at 16:27 there's, a handler has
14:44:39 21 received another SMS, "Thinking about [REDACTED] Suggests
14:44:44 22 Detective Bateson to bring up the subject of money, can
14:44:48 23 explain further". And then underneath that on 10 July 2006
14:44:55 24 at 9.47 it's got a comment, "Re [REDACTED] He will know
14:45:08 25 about money and be able to explain [REDACTED] of [REDACTED]
14:45:13 26 [REDACTED] if interviewing member mentions appropriately.
14:45:17 27 Ms Gobbo says that she represented [REDACTED] at ACC
14:45:22 28 hearings". Do you see that?---Yes.
14:45:24 29
14:45:24 30 It's apparent that she's indicating what the investigators
14:45:29 31 should be asking of [REDACTED]---Yes.
14:45:34 32
14:45:35 33 It's apparent that she's indicating that she knows about
14:45:40 34 certain things, seemingly, because she's represented
14:45:43 35 [REDACTED] at ACC hearings?---I don't know if that's
14:45:51 36 the case. It said she had represented [REDACTED] at
14:45:55 37 ACC hearings.
14:45:56 38
14:45:56 39 You understand those ACC hearings were about financial
14:45:59 40 matters?---They may have been, I'm not 100 per cent sure
14:46:10 41 whether that was in relation to the AOSD determination.
14:46:15 42
14:46:18 43 In any case she seems to be suggesting the investigators
14:46:19 44 should inquire of him about financial matters in relation
14:46:22 45 to [REDACTED] "And coincidentally I've represented [REDACTED]
14:46:26 46 [REDACTED] at the ACC hearings"?---That's what the document
14:46:29 47 says, yes.

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14:46:30 1
14:46:32 2 Over the page on 11 July, at p.353, at 10.46, we see
14:46:44 3 Ms Gobbo says she rang Detective Bateson. "[REDACTED] is
14:46:51 4 not being totally truthful re murder matters. Ms Gobbo is
14:46:56 5 to speak to him on Thursday morning, on 3 July 2006"---13
14:47:05 6 July, yes.
14:47:06 7
14:47:07 8 "Re [REDACTED] murder on the day of offence, Ms Gobbo was
14:47:11 9 at airport with mother and may have received or made
14:47:14 10 relevant calls to [REDACTED] location - [REDACTED] has
14:47:18 11 nominated [REDACTED] as an alibi. Bateson to sort it out.
14:47:24 12 Ms Gobbo is going to supply him with a phone bill to assist
14:47:28 13 him", do you see that?---Yes.
14:47:30 14
14:47:33 15 There's a number of things sort of packed into there.
14:47:37 16 Ms Gobbo's potentially a witness because she's got some
14:47:41 17 evidence that might assist in relation to proving or
14:47:43 18 disproving an alibi for [REDACTED], do you see
14:47:50 19 that?---In relation to - whereabouts on the document,
14:47:52 20 sorry?
14:47:52 21
14:47:53 22 There's reference to her being at the airport with her
14:47:57 23 mother and she may have received or made relevant calls to
14:48:01 24 [REDACTED] and that has relevance to the location, and that
14:48:08 25 [REDACTED] has nominated [REDACTED] as his alibi for when
14:48:12 26 the murder took place?---Can I just read it for a moment?
14:48:18 27 Sorry. Yes, I see that now, yes.
14:48:29 28
14:48:29 29 That's the sort of second point in that paragraph there,
14:48:33 30 the first point being that there's some concern that
14:48:37 31 [REDACTED] has not been totally truthful and Ms Gobbo is
14:48:41 32 getting sent out to speak to him again?---Yes, obviously
14:48:50 33 there's a difference in what the police knew and what he
14:48:54 34 was saying obviously.
14:48:56 35
14:48:57 36 There was a use being made of Ms Gobbo to go out and speak
14:49:02 37 to him to see if she could get him to change his story to
14:49:06 38 suit the - or the version that the police believed was the
14:49:10 39 truth?---I don't know whether it was about the version or
14:49:14 40 whether it was just about what the truth was.
14:49:16 41
14:49:16 42 It may have been about what the truth was, but it seems to
14:49:19 43 be the case that Ms Gobbo is being sent out there to
14:49:22 44 influence what he would put in his statement, do you accept
14:49:24 45 that?---Yes.
14:49:25 46
14:49:36 47 At p.356. On 12 July 2006 this is. You can see that there

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14:49:56 1 and over the page. You'll see the second paragraph down,
14:50:03 2 there's reference to Ms Gobbo not doing the ██████ plea,
14:50:08 3 she'll be arranging a QC to do that and then she goes on,
14:50:13 4 "She's also trying to get out of ██████ matter but
14:50:17 5 ██████ doesn't see why she can't do it". Do you see
14:50:23 6 that?---Yes, sorry, is this up the top, the top of the
14:50:54 7 document, is it?

14:50:55 8
14:50:55 9 COMMISSIONER: Second paragraph under the heading ██████
14:51:00 10 ██████---Right. That's right, yes.

14:51:11 11
14:51:13 12 MS TITTENSOR: If we can go to 358. We're at 17:25 is the
14:51:29 13 time. You'll see under the name of ██████ it says, "Is
14:51:35 14 up to 80 per cent truth now". And then goes on, in June of
14:51:40 15 2003 there was an issue with Ms Gobbo on the phone talking
14:51:47 16 to ██████ and Ms Gobbo has checked the phone bill and
14:51:52 17 it's correct. And it goes on, ██████ has been
14:51:57 18 dishonest re ██████?---Yes, I see that.

14:52:01 19
14:52:03 20 If we can go to 359, please. You'll see at 13:56, third
14:52:25 21 line down, ██████ is now good. Ms Gobbo had a talk to
14:52:30 22 Detective Bateson and they are happy with him"?---Yes, I
14:52:35 23 see that.

14:52:36 24
14:52:40 25 Further down the page on 16 July, there's mention under
14:52:47 26 12.07, the last entry under 12.07, ██████ statements
14:52:53 27 to be served tomorrow and she's expecting problems.
14:53:00 28 Further down the page on 17 July 2006, at 8.41 in the
14:53:07 29 morning, the very last line, Detective Bateson is serving
14:53:10 30 ██████ statements this morning?---Yes.

14:53:14 31
14:53:16 32 Just for your own edification, the statements haven't yet
14:53:22 33 been signed?---Right.

14:53:23 34
14:53:23 35 They're not signed for a day or so yet. Over the page, on
14:53:39 36 18 July 2006 at 3.58 pm, Ms Gobbo indicates that she's
14:53:48 37 going to BSR, is that a code for St Kilda Road police
14:53:56 38 station?---Yes, I'd say so.

14:53:58 39
14:53:58 40 She's going to the St Kilda Road police station at
14:54:02 41 6 o'clock to read ██████ statements?---Yes.

14:54:06 42
14:54:10 43 Same page - - - ?---Just - excuse me, I just draw your
14:54:15 44 attention here.

14:54:16 45
14:54:17 46 Yes?---"DDI O'Brien advised." I wasn't advised at all, I
14:54:22 47 was interstate at the time. Again, it has me being

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14:54:25 1 advised.
14:54:25 2
14:54:27 3 Again, is it possible that you were called from time to
14:54:29 4 time on your mobile?---Not when I was at that course, no.
14:54:34 5
14:54:34 6 There was just simply no contact with you whatsoever?---No.
14:54:37 7
14:54:38 8 Did you have a mobile phone there?---I would have, yes.
14:54:41 9
14:54:42 10 Do you say you didn't receive any calls from anyone in
14:54:46 11 relation to anything during that entire period?---No, I
14:54:50 12 didn't.
14:54:52 13
14:54:56 14 Were you having any communication with Mr Ryan at all?---I
14:55:01 15 might have been. Probably would have rung me and asked me
14:55:05 16 how it was all going.
14:55:07 17
14:55:14 18 Further down the page at 8.53. Just while we're on it, you
14:55:26 19 were away during this period of time. Did you have your
14:55:30 20 diary with you in New South Wales or did you fill it out -
14:55:34 21 - - ?---No, I had it with me in New South Wales.
14:55:36 22
14:55:38 23 Further down the page at 8.53, this is 19 July, it's
14:55:43 24 apparent that Ms Gobbo has seen and been to the station to
14:55:49 25 read the statements the night before. It reports, "She's
14:55:53 26 very impressed with [REDACTED] statements. Includes over
14:55:57 27 [REDACTED] pages re [REDACTED] and that she amended some
14:56:05 28 slightly", do you see that?---I do, yes.
14:56:07 29
14:56:10 30 Do you think that that's a bit concerning, that Ms Gobbo
14:56:13 31 has gone to the station, presumably, maybe with, it doesn't
14:56:22 32 seem to be with [REDACTED] but she's made some amendments
14:56:25 33 to those statements?---Yes, I don't know what, what the
14:56:31 34 amendments were or anything.
14:56:31 35
14:56:33 36 Would you have had some concern if that was the process and
14:56:36 37 you were aware of it at the time?---Yes, generally it would
14:56:41 38 be up to whoever was representing a witness if they were
14:56:44 39 going to review the statements.
14:56:46 40
14:56:46 41 Would they come along and make the changes themselves and
14:56:49 42 amend the statements themselves?---Not generally, no.
14:56:52 43
14:56:52 44 And if they did so and there was, for example, a copy of
14:56:58 45 the statement and it's got handwritten amendments of the
14:57:02 46 solicitor or of the barrister on them, you would expect
14:57:06 47 that the police would keep those statements?---Generally be

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14:57:10 1 kept and initialled.
14:57:11 2
14:57:11 3 Sorry?---Any amendments That are generally made are
14:57:15 4 initialled and kept.
14:57:17 5
14:57:17 6 Generally, and they might be initialled by the maker of the
14:57:22 7 statement, who ultimately signs the statement?---Yes.
14:57:24 8
14:57:24 9 We're talking about a situation where she's not the maker
14:57:28 10 of the statement, she's a reader of the statement that
14:57:31 11 someone else has made, but seemingly has made some changes,
14:57:37 12 some amendments, to those statements. Now if that's done
14:57:41 13 by way of a handwriting process, you would expect that that
14:57:46 14 copy would be maintained and kept by the police, would you
14:57:51 15 not?---Generally, yes.
14:57:52 16
14:57:54 17 And even if it was done, for example, straight into a
14:57:57 18 computer, you would expect that the police would keep a
14:58:02 19 diary entry which would record that and would be disclosed
14:58:06 20 to the defence?---Generally that's - statements can be
14:58:12 21 found by checking under the properties in relation to if
14:58:15 22 you're using Microsoft Word or something like that.
14:58:19 23
14:58:19 24 Do you know whether there was any practice of when a
14:58:23 25 statement was being taken by the police, of just taking it
14:58:29 26 on a computer, so there's not a handwritten copy at a
14:58:34 27 particular point in time, you take the statement on the
14:58:37 28 computer and then as amendments are made they're just saved
14:58:42 29 in the same file name so that the various iterations of the
14:58:47 30 statement are not saved?---Look, things have changed. No
14:58:51 31 doubt over the years, probably also changed in the 14 or 15
14:58:57 32 years I've been gone, but look, in my day it was generally,
14:59:01 33 I liked to take statements direct on to a computer, but if
14:59:04 34 I was out in the field, if it was a murder inquiry or
14:59:08 35 something like that, I'd take handwritten statements which
14:59:10 36 were - but preferable for a typed statement because of
14:59:14 37 handwriting issues.
14:59:15 38
14:59:16 39 But, for example, speaking hypothetically, you've taken a
14:59:21 40 statement from a witness in respect of a serious matter
14:59:26 41 like a murder and the witness comes along and makes a
14:59:31 42 change to that statement before it's signed?---Yes.
14:59:34 43
14:59:34 44 So it's happened over, you know, on two separate occasions.
14:59:39 45 Would you just press save so that the first version was
14:59:44 46 never permanently saved or would you save it under a
14:59:47 47 different name so that you've got the two separate

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14:59:49 1 copies?---Look it's a bit hard to say. Generally I would
14:59:54 2 take a - if it was a minor amendment I would just get them
14:59:58 3 to put a line through what they disagreed with and write in
15:00:03 4 what they say really happened and then initial it. Or I
15:00:06 5 would take a further statement as an addendum, "I make this
15:00:10 6 statement in addition to a statement I made on such and
15:00:14 7 such a date and time".

15:00:15 8
15:00:15 9 If it wasn't a statement that had been signed yet, what
15:00:20 10 would be the situation BE?---I'd just save it.

15:00:22 11
15:00:22 12 Would you end up with the two separate copies so that
15:00:26 13 someone examining this process down the line would know
15:00:29 14 that the witness said this thing the first time round and a
15:00:33 15 number of days later they've changed their mind about that
15:00:36 16 and they've said something a bit different?---Look, it
15:00:40 17 might depend on the circumstances that you found yourself
15:00:42 18 in, if you were at the police station at the office or
15:00:45 19 whether you were out working off a laptop or something like
15:00:48 20 that.

15:00:48 21
15:00:50 22 Do you have a view now about whether these processes should
15:00:55 23 be videoed or recorded so that they're transparent?---In
15:01:02 24 the ideal world, yes.

15:01:06 25
15:01:06 26 I'm not saying that it was capable of being done
15:01:10 27 necessarily with the technology or whatever resources were
15:01:14 28 had yet, things have moved along a bit, but do you have a
15:01:18 29 view now as to the process that should be undertaken when
15:01:28 30 statements are being taken?---It would certainly save a lot
15:01:34 31 of angst, wouldn't it?

15:01:36 32
15:01:37 33 If we can go to p.364. If we just go up slightly so that
15:01:42 34 we can see the date. It's 20 July. You see here there's
15:01:53 35 an indication at the top that [REDACTED] and [REDACTED] are
15:02:00 36 [REDACTED] the prison. Ms Gobbo doesn't think that's a
15:02:05 37 good idea because all they'll do is talk about her and
15:02:10 38 about the evidence they give in their respective
15:02:12 39 statements, and she'd found out they were together it seems
15:02:15 40 when she was talking to [REDACTED] on the phone and he
15:02:19 41 handed the phone over to [REDACTED] --Yes.

15:02:21 42
15:02:23 43 I think one of the things that police get taught pretty
15:02:27 44 early when they arrive at a crime scene is to separate
15:02:31 45 witnesses, is that right?---That's correct.

15:02:34 46
15:02:35 47 Because their accounts might be infected by each other,

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15:02:41 1 whether that's deliberately or otherwise?---Yes.
15:02:44 2
15:02:46 3 Are you aware in this case that a number of these prolific
15:02:55 4 witnesses, super grasses as they might have been referred
15:03:00 5 to in the media, were all housed together where they could
15:03:04 6 freely communicate with each other?---I don't think that
15:03:09 7 was the case. [REDACTED] that may have been the initial situation
15:03:16 8 but I mean at the end of the day it's up to the Office of
15:03:20 9 Corrections where they put people.
15:03:21 10
15:03:21 11 I'm not saying you had necessarily any influence on this,
15:03:25 12 but it seems to the Commission that the records indicate
15:03:30 13 that around this time that there's a convergence of [REDACTED]
15:03:37 14 [REDACTED] and not only that but [REDACTED] all
15:03:41 15 together?---Right.
15:03:42 16
15:03:42 17 Do you know who I'm talking about when I say [REDACTED]
15:03:48 18 [REDACTED]---Sorry. Don't tell me I made a Freudian slip. Right,
15:04:03 19 yes.
15:04:03 20
15:04:04 21 So it seems as though they were all housed together around
15:04:10 22 about this time and they're all in the process of making
15:04:15 23 statements?---Well I understand [REDACTED] and [REDACTED] were in together,
15:04:27 24 yes.
15:04:27 25
15:04:29 26 And it seems, at least from what Ms Gobbo was saying, so is
15:04:34 27 [REDACTED] now?---Yeah, I was unaware of that.
15:04:38 28
15:04:39 29 [REDACTED] is handing the phone over to [REDACTED]---Right.
15:04:45 30 I was unaware of that.
15:04:47 31
15:04:47 32 All of these people are within what is colloquially known
15:04:53 33 as the underworld, is that right, they all have various
15:04:57 34 connections?---They're all criminals, yes.
15:04:59 35
15:05:00 36 Each had significant credibility issues?---Yes.
15:05:06 37
15:05:11 38 Putting them together created a risk that their accounts
15:05:16 39 might be contaminated?---As I say, I didn't have, I didn't
15:05:22 40 have a say in who was put with who. It was more about I
15:05:25 41 suppose any input we would have had would have been from
15:05:29 42 the point of keeping people alive.
15:05:31 43
15:05:31 44 That may have been the practicalities about it all, I'm
15:05:35 45 just asking you about the other risks that are associated
15:05:37 46 with that?---Yes, that is a risk, yes.
15:05:39 47

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15:05:41 1 These [REDACTED] people were prolific statement makers, is that
15:05:45 2 right?---At various stages, yes.
15:05:49 3
15:05:51 4 Ms Gobbo had an association with all [REDACTED] of them?---Not
15:05:55 5 as far as I know. Certainly [REDACTED] of them but not the third.
15:05:59 6
15:06:01 7 Are you aware that she at least visited [REDACTED] on one
15:06:07 8 occasion at the prison, on at least one occasion at the
15:06:12 9 prison?---I don't believe I have that knowledge.
15:06:14 10
15:06:14 11 And later on [REDACTED] suggested that the reason he came
15:06:18 12 forward with some allegations in relation to what he called
15:06:22 13 the [REDACTED] matter was because of something that Ms Gobbo
15:06:27 14 had told him?---I'm not aware of that. Certainly nothing
15:06:30 15 that he - - -
15:06:31 16
15:06:32 17 Or that she'd said?---He didn't express that to me at any
15:06:36 18 stage. He virtually said to me, "I'll plead guilty in
15:06:42 19 relation to [REDACTED] [REDACTED] will plead guilty, we'll
15:06:46 20 give evidence and if you do the right thing I'll give you
15:06:49 21 another one "and I thought, what other one? I didn't know
15:06:53 22 of another one.
15:06:54 23
15:06:54 24 And then at some stage he stuck his hand up with the word
15:06:59 25 [REDACTED] on it?---That's correct, he didn't put his hand up
15:07:03 26 with the word [REDACTED], he said the word [REDACTED] which meant
15:07:09 27 nothing to me.
15:07:10 28
15:07:11 29 Down the track he explained in court that the reason he
15:07:14 30 came to make that allegation was because of something that
15:07:21 31 Ms Gobbo had said. Did you become aware of that?---No.
15:07:27 32
15:07:29 33 Did you know that she'd had some interaction with him along
15:07:36 34 with David Waters prior to him going into custody?---No, I
15:07:42 35 did not.
15:07:43 36
15:07:52 37 Did you know that the Commission's heard some evidence
15:07:56 38 earlier this morning in relation to a statement that
15:08:01 39 Ms Gobbo made to her handlers that she had access and had
15:08:08 40 read [REDACTED]'s statement in about June 2006, so that may
15:08:15 41 well have been a statement in relation to the [REDACTED]
15:08:18 42 matter at that stage, a statement which she said to the
15:08:22 43 handlers that she shouldn't have. Did you know that?---No.
15:08:26 44
15:08:26 45 Do you know how she might have gotten her hands on such a
15:08:30 46 statement that she shouldn't have?---No. Unless the person
15:08:44 47 provided it to her. I don't know whether that was the case

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15:08:46 1 or not.
15:08:46 2
15:08:46 3 It's unclear at this stage whether that statement had been
15:08:49 4 signed or if that statement had been served on
15:08:53 5 anyone?---All right.
15:08:53 6
15:08:56 7 So on 25 July 2006, by that stage the statements in
15:09:06 8 relation to ██████████ had been signed. I think many of
15:09:10 9 them signed on about 19 July, but they were provided on
15:09:13 10 that day to the OPP. As you'd expect, subsequent to that
15:09:21 11 ██████████ was notified that ██████████ had become a
15:09:24 12 prosecution witness. So it seems as though there was -
15:09:33 13 it's apparent that there was a statement taken from him
15:09:36 14 ultimately in relation to the ██████████ and ██████████
15:09:41 15 murders?---Right.
15:09:41 16
15:09:41 17 Initially there'd been an indication that we won't accept
15:09:45 18 him as a witness of truth, we won't take a statement in
15:09:48 19 relation to that one, but it seems as though ultimately
15:09:51 20 there was such a statement taken?---Right.
15:09:52 21
15:09:53 22 If you can go to your diary for that date, 25 July,
15:10:02 23 please?---Yes.
15:10:02 24
15:10:12 25 Is it the case that at 1.15 pm on that day you attended the
15:10:24 26 14th floor with, at that stage it's now Deputy Commissioner
15:10:29 27 Overland?---Yes.
15:10:30 28
15:10:30 29 Is that right, he's been promoted?---Yes.
15:10:33 30
15:10:34 31 And Superintendents Grant, Whitmore and Blayney?---Yes.
15:10:38 32
15:10:38 33 And you brief them re the Operation Purana weekly briefing
15:10:43 34 paper?---Yes.
15:10:44 35
15:10:44 36 No doubt there would have been some discussion at that
15:10:50 37 stage about the ██████████ statements, would you
15:10:52 38 expect?---There may have been, I'm not 100 per cent sure.
15:10:56 39
15:10:56 40 Given that they'd been signed and then served on that date
15:10:59 41 and that's all happened within the last week, you'd expect
15:11:03 42 that?---It may have been, I'm not 100 per cent sure.
15:11:06 43
15:11:09 44 At 16:30 there's a meeting with Mr White of the SDU?---Yes.
15:11:16 45
15:11:17 46 And other members of the SDU?---Yes.
15:11:21 47

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15:11:22 1 And that's in relation to future tasking and strategies to
15:11:29 2 be developed?---Yes.
15:11:30 3
15:11:30 4 And that you're to be the single point of contact?---That's
15:11:34 5 correct.
15:11:34 6
15:11:39 7 Then following that you seem to have another meeting with
15:11:44 8 Smith of the SDU and there's a solid page or so of notes,
15:11:50 9 intelligence?---Yes.
15:11:51 10
15:11:54 11 Is it noted within that, right down the bottom of the page,
15:11:59 12 the next page, p.168 I think of your diary, that Milad
15:12:05 13 Mokbel will be making a bail application on 8 July?---8
15:12:11 14 August.
15:12:12 15
15:12:12 16 Sorry, 8 August. And he'll issue a subpoena re all
15:12:19 17 witnesses and informers, do you see that?---That's correct.
15:12:21 18
15:12:25 19 If you can go to the next day on your diary. That's 8 am.
15:12:41 20 Do you see there's an entry within the 8 am entry that you
15:12:50 21 attend to inquiries re legal counsel to be briefed re PII
15:12:55 22 issues?---Yes.
15:12:56 23
15:12:56 24 Do you agree that that's likely to be something that you
15:12:59 25 were doing because of the indication the day before about
15:13:02 26 the subpoena?---It may have been.
15:13:06 27
15:13:10 28 If you can go to your diary on 31 July?---Yes.
15:13:20 29
15:13:21 30 Up the top at 15:25 you have a meeting there with Detective
15:13:30 31 Sergeant Bateson and Officer Pearce re PII
15:13:34 32 issues, is that right?---Yes.
15:13:35 33
15:13:43 34 Do you think that that's likely to relate to Ms Gobbo's
15:13:47 35 involvement in matters coming up?---It may.
15:13:52 36
15:13:57 37 Mr Bateson had an involvement in relation to [REDACTED]
15:14:02 38 certainly?---Yes.
15:14:03 39
15:14:04 40 What was Officer Pearce's involvement, do you know?---Look, I'm,
15:14:13 41 I'm not sure at this point. You know, he may have had some
15:14:19 42 involvement in my absence or something.
15:14:22 43
15:14:22 44 Do you know if he had an involvement in [REDACTED] or [REDACTED]
15:14:29 45 [REDACTED]---Probably [REDACTED] but, as I say, it probably would
15:14:33 46 have been in my absence.
15:14:34 47

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15:14:35 1 Was Officer Pearce more of a Homicide person or a Drugs
15:14:42 2 person?---Look, I'm not 100 per cent sure, I think he sat
15:14:45 3 somewhere in the middle. His major job or one of his major
15:14:52 4 jobs was doing a lot of general stuff around risk
15:14:56 5 assessment but also looking after all the continuity of TI
15:15:01 6 product and that type of thing, audits and so forth.
15:15:04 7
15:15:05 8 I notice the time, Commissioner.
9
15:15:07 10 COMMISSIONER: We'll have our afternoon break for ten
15:15:11 11 minutes.
15:15:12 12
15:15:37 13 (Short adjournment.)
14
15:36:18 15 COMMISSIONER: I wanted to just mention at this stage that
15:36:21 16 yesterday I had a written application from Paul Dale's
15:36:27 17 lawyers to apply for leave to appear during this current
15:36:33 18 tranche of hearings. It seemed to me appropriate. The
15:36:39 19 lawyers have indicated they're prepared to, or they will
15:36:42 20 give the undertaking that the other legal representatives
15:36:45 21 have given. The only thing that occurred to me is that we
15:36:51 22 probably should form a view - first of all I wanted to give
15:36:55 23 the opportunity, whether anybody had anything to say
15:36:57 24 against me granting leave and, secondly, the effect of that
15:37:00 25 because I think Mr Orman was specifically excluded. I
15:37:05 26 wouldn't have thought that there would be any problem with
15:37:08 27 Mr Dale being present but maybe I'm not understanding the
15:37:14 28 issue. So I just wanted to give you - - -
15:37:16 29
15:37:17 30 MR HOLT: I think I may not be understanding the issues
15:37:19 31 either, Commissioner. Can I take some instructions on that
15:37:21 32 matter? I don't think it's an immediate issue as I
15:37:24 33 understand it.
34
15:37:24 35 COMMISSIONER: Not necessarily. No, they're not here. I
15:37:26 36 think they want access to transcripts and so forth.
15:37:29 37
15:37:30 38 MR HOLT: We have nothing to say about the question of
15:37:31 39 leave. Unless we say something to the contrary I think we
15:37:36 40 would not oppose him being present, but can I take
15:37:40 41 instructions on that and I'll advise overnight or in the
15:37:44 42 morning.
43
15:37:45 44 COMMISSIONER: Sure. Sure.
15:37:45 45
15:37:45 46 MR McDERMOTT: I wonder if the State might do that as well
15:37:49 47 overnight given that there's nothing pressing this

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15:37:50 1 afternoon. I'm conscious that the State hasn't usually
15:37:53 2 made a submission about whether to appear. I just don't
3 have instructions in relation to that.
4

15:37:55 5 COMMISSIONER: No, they've never made an application. All
15:37:57 6 right, we'll raise the matter again tomorrow morning.
15:38:01 7

15:38:01 8 MR HOLT: And, Commissioner, can I just indicate, in terms
15:38:02 9 of that issue this morning in respect of Mr Overland's
15:38:07 10 emails, I'm instructed that they will be provided by Monday
15:38:11 11 at the latest, Commissioner, and I've advised those
15:38:16 12 instructing.
13

15:38:17 14 COMMISSIONER: Thank you. Yes, Ms Tittensor.
15:38:19 15

15:38:19 16 MS TITTENSOR: Mr O'Brien, I was just asking you about 31
15:38:21 17 July and the entry that you had in your diary in relation
15:38:27 18 to meeting with Detectives Bateson and Officer Pearce in relation
15:38:31 19 to public interest immunity issues. If I can then ask you
15:38:33 20 to move to 1 August?---Yes.
21

15:38:43 22 So down the bottom of the same page essentially at 9.45, do
15:38:49 23 you see an entry there that you go to the legal advisor's
15:38:56 24 office?---Yes, that's correct.
25

15:38:57 26 Then at 9.57 you're at the legal advisor's office with
15:39:06 27 Detective Hatt?---That's correct.
28

15:39:07 29 Dianne Thompson?---Yes.
30

15:39:09 31 Do you know who Dianne Thompson was?---No. I'd imagine she
15:39:15 32 would have been attached to the legal advisor's office.
33

15:39:19 34 Acting Inspector John Stevens?---Yes.
35

15:39:21 36 And solicitor David Stephens?---Yes.
37

15:39:23 38 It says, "Re legal representation. Then to legal advisors
15:39:35 39 to source QC", is that right?---And junior.
40

15:39:37 41 And junior for PII issues?---Yes.
42

15:39:39 43 Then it relates to 7 August for Williams' pre-trial and 8
15:39:48 44 August for Milad Mokbel bail application?---Yes.
45

15:39:51 46 And 14 August for Williams' trial?---Yes.
47

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15:39:56 1 There's discussion in relation to QCs available?---Yes.
2
15:40:02 3 And there being inquiries about the same thing by a
15:40:07 4 Ms Dianne Preston?---That's correct.
5
15:40:09 6 Do you understand Dianne Preston to be a lawyer at the
15:40:12 7 legal advisor's office?---I believe so, yes.
8
15:40:16 9 So it seems as though the PII issues that are anticipated
15:40:20 10 relate to the Carl Williams trial and the Milad Mokbel bail
15:40:27 11 application?---Yes.
12
15:40:34 13 When you say legal advisor's office, is that at that stage
15:40:38 14 the VGS0?---I'm not sure whether it was the VGS0 or
15:40:44 15 Victoria Police, but it might be the VGS0.
16
15:40:49 17 Did you have a place where you would ordinarily go to get
15:40:53 18 your legal advice when you needed it?---No, not that I'm
15:40:58 19 aware of.
20
15:41:01 21 If you go further down the page, it's 15:35 I think. You
15:41:12 22 see that?---Yes.
23
15:41:13 24 You go to the 12th floor and speak to Superintendent Grant
15:41:17 25 re the costs issue re legal advice?---Yes.
26
15:41:26 27 The following day, if we can go to the ICRs please at
15:41:44 28 p.379. We're on 2 August here. Do you see at 12.20
15:41:54 29 there's a management issue from DDI O'Brien. So the Source
15:42:01 30 Development Unit appears to have been receiving information
15:42:03 31 from you that Carl Williams has written a letter to the Law
15:42:07 32 Institute and the judge saying that Ms Gobbo was in a
15:42:10 33 sexual relationship with [REDACTED] and therefore is not a
15:42:15 34 proper person to act and also that Carl, being Carl
15:42:21 35 Williams, is trying to discredit [REDACTED]---Yes.
36
15:42:24 37 Do you recall that event?---I don't specifically recall it.
15:42:29 38 I've got some notes in my diary.
39
15:42:33 40 If we can go to your diary there. That entry is a bit
15:42:38 41 after midday, 12.20?---All right. 11.30 I return to the
15:42:50 42 office, "Issues re UC and CSU deployment". Sorry, that was
15:42:59 43 another issue.
44
15:42:59 45 If we go to 2nd of - - - ?---"Made telephone call, spoke to
15:43:08 46 David Stephens VGS0 re David Parsons as likely barrister
15:43:11 47 for PII issues for Victoria Police re Williams and Mokbel

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15:43:14 1 issues". That's it.
2
15:43:19 3 But first of all we're dealing with the indication from the
15:43:24 4 SDU that they've got information from you in relation to
15:43:27 5 Carl Williams having written a letter to the LIV in
15:43:30 6 relation to Ms Gobbo. Do you see under 6.40 you've got - -
15:43:38 7 - ?---Yes, I see that.
8
15:43:39 9 An indication that you've spoken that morning with [REDACTED]
15:43:43 10 [REDACTED] White?---White and Flynn.
11
15:43:44 12 And Flynn and it's just got "re Operation Posse"?---"DSU
15:43:51 13 issues", yes.
14
15:43:52 15 It doesn't elaborate in relation to what you spoke to them
15:43:57 16 about?---No.
17
15:43:57 18 Do you accept from the ICR that that conversation was about
15:44:02 19 Carl Williams raising issues with the LIV and the judge
15:44:05 20 about Ms Gobbo?---May well have been, yes.
21
15:44:12 22 As you pointed out, at 11.30 you have a conversation with,
15:44:18 23 it's David Stephens, and it seems to make clear that he's
15:44:21 24 from the VGSO that you're dealing with?---Yes.
25
15:44:24 26 And that David Parsons is the likely barrister for the PII
15:44:28 27 issues?---That's correct.
28
15:44:29 29 For Victoria Police in relation to the Williams and Mokbel
15:44:32 30 issues?---That's correct.
31
15:44:33 32 And it goes on, the last sentence there, that there's a
15:44:36 33 discussion with staff re forthcoming court PII
15:44:41 34 issues?---Yes.
35
15:44:43 36 What would that discussion with your staff have been
15:44:46 37 about?---At this stage I can't recall, but I mean it would
15:44:52 38 have been in relation to obviously production of documents,
15:44:55 39 et cetera.
40
15:44:56 41 Which staff do you expect you would have spoken to?---Those
15:45:01 42 involved in those matters I'd say, so it's probably
15:45:04 43 Bateson.
44
15:45:05 45 Would that have been instructions that they should prepare
15:45:08 46 all their notes and get ready, get them ready for possible
15:45:11 47 disclosure?---Yes, just telling them that there's obviously

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15:45:16 1 a PII issue and that Mr Parsons was going to handle the
15:45:20 2 matter and they'd have to prepare for it.
3
15:45:26 4 Would there have been any other, any recording of those
15:45:30 5 instructions to your staff other than in your diary
15:45:37 6 here?---I don't think so.
7
15:45:43 8 On 3 August 2006 it's apparent at this stage that Ms Gobbo,
15:45:52 9 it seems, is proposing to act for ██████████ in his plea
15:45:58 10 hearing and a number of the statements made by ██████████
15:46:01 11 had related to ██████████ and of course he had his trial
15:46:06 12 coming up in relation to the murder of ██████████ and
15:46:11 13 ██████████ ---That's in here, is it? Sorry.
14
15:46:13 15 Sorry, I'm just filling you in on that?---Right.
16
15:46:17 17 At p.381 you'll see there it's apparent that ██████████
15:46:33 18 had found out that Ms Gobbo had been seemingly preparing to
15:46:39 19 act for ██████████ It says ██████████, who was ██████████
15:46:44 20 ██████████' solicitor, rang to fax a letter from ██████████ in
15:46:50 21 relation to issues of conflict. She'd copied that to the
15:46:54 22 DPP Coghlan and the Governor of the prison. The letter
15:46:59 23 says that she had acted for ██████████ which she says is
15:47:04 24 wrong, that she'd acted for ██████████ in relation to
15:47:08 25 ██████████ and ██████████, which she says is wrong, and asks why
15:47:12 26 she's visiting ██████████ --Yes.
27
15:47:15 28 It then goes on to say a number of subpoenas have been
15:47:20 29 issued in relation to ██████████ Now, it would be quite
15:47:24 30 apparent to anyone investigating the circumstances of this
15:47:28 31 if the court or the Law Institute or the Bar were
15:47:33 32 investigating the circumstances of this, if they were to be
15:47:35 33 told the true position in relation to Ms Gobbo, they would
15:47:39 34 have no trouble, you might think, indicating that there's a
15:47:44 35 conflict and she shouldn't be acting?---I believe so, yes.
36
15:48:04 37 It's apparent, having seen the letter of Mr Williams, that
15:48:10 38 in that letter he indicated that Zarah Garde-Wilson, who
15:48:17 39 had been representing him, had a conflict of interest once
15:48:22 40 ██████████ had become a witness, and aside from not being
15:48:26 41 able to represent him in relation to that matter, she'd
15:48:29 42 been taken off his phone list at the prison?---Right.
43
15:48:35 44 Is that something that Purana would have consulted with
15:48:39 45 Corrections about, about having Ms Garde-Wilson taken off
15:48:43 46 the phone list for Carl Williams?---I'm not sure. I'd
15:48:48 47 imagine if the prisoner didn't want her on the phone list

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15:48:50 1 he would just advise Corrections himself.
2
15:48:53 3 Sorry?---I'd imagine the prisoner would advise Corrections
15:48:56 4 himself.
5
15:48:57 6 No, it seems that Mr Williams would have preferred to have
15:49:02 7 remained in contact with Ms Garde-Wilson but she
15:49:06 8 nevertheless was taken off his phone list because of a
15:49:10 9 conflict issue?---Yeah, I don't recall that.
10
15:49:17 11 Did you have discussions around this time in relation to
15:49:20 12 Ms Gobbo's position? Perhaps we'll go to your diary here
15:49:30 13 for 3 August. I'll take you through some entries. On 3
15:49:37 14 August do you see at 10.20 at the top on the second
15:49:43 15 line?---Yes.
16
15:49:43 17 You've indicated that there's some liaison with the legal
15:49:47 18 advisor's office?---Yes. It's just gone off the screen.
19
15:49:57 20 This may or may not all be included in your - you might
15:50:05 21 have to go for some of these entries to your actual diary,
15:50:09 22 Mr O'Brien?---Right.
23
15:50:19 24 Do you see at 10.20 in your diary?---3 August are you
15:50:25 25 talking about?
26
15:50:26 27 Yes?---Yes. 10.20, yes.
28
15:50:34 29 There's a liaison with the legal advisor's office?---Yes.
30
15:50:37 31 At midday it's got, "Returned a call" or RTC?---Yes,
15:50:48 32 returned telephone call.
33
15:50:49 34 Returned telephone call from legal advisor's office, Dianne
15:50:53 35 Preston, saying Victoria Police had briefed David Parsons
15:50:58 36 at a particular rate and a junior, Brian Dennis, at a
15:51:03 37 particular rate, in relation to PII issues. Do you see
15:51:09 38 that?---Sorry, I can't - what time are we talking about?
39
15:51:13 40 I think it's midday?---Midday.
41
15:51:17 42 There's an 11.40 entry and then there's a midday
15:51:22 43 entry?---There's nothing there about - - -
44
15:51:24 45 Right down the bottom - - - ?---Sorry, "Received telephone
15:51:26 46 call from legal advisor's office, Dianne Preston. VicPol
15:51:31 47 briefed David Parsons at 3,250 a day and junior Brian

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15:51:40 1 Dennis at 1,500 a day re PII issues".
2
15:51:44 3 If we go down to 14:05, do you see you've returned a
15:51:50 4 telephone call from Vaile Anscombe, who's the OPP
15:51:56 5 solicitor, re PII issues?---That's correct.
6
15:51:58 7 There's a dash to "bail application"?---Yes.
8
15:52:04 9 And you contact Andrew Tinney and there's a telephone
15:52:09 10 number, and Vale, there's a telephone number for
15:52:14 11 her?---Yes.
12
15:52:15 13 Underneath that at 3 pm, 15:00, then's an entry: "Convene
15:52:22 14 a meeting with all staff in relation to a number of
15:52:25 15 issues"?---Yes.
16
15:52:28 17 It indicates under those issues they include a CPP
15:52:32 18 presentation, PII and trial issues?---Yes.
19
15:52:36 20 Was there to be a presentation to the Chief Commissioner in
15:52:43 21 relation to the PII and trial issues?---No, it's just a
15:52:45 22 presentation on Purana basically to the Chief Commissioner
15:52:50 23 and Command.
24
15:52:52 25 Is that a separate thing than the PII and trial
15:52:55 26 issues?---Yes.
27
15:52:57 28 There's no sort of comma separating those two
15:53:02 29 entries?---That's just probably my poor punctuation.
30
15:53:05 31 That's all right. So to your knowledge was there any
15:53:10 32 information going up the line to the Chief Commissioner or
15:53:16 33 - - - ?---No.
34
15:53:17 35 - - - the Assistant or the Deputy Commissioner in relation
15:53:19 36 to these matters?---No, this was just general topics that
15:53:22 37 were discussed, that's me.
38
15:53:24 39 In any case there's further information being conveyed to
15:53:30 40 all the staff in Purana in relation to these PII and trial
15:53:33 41 issues that are going on?---Yes.
42
15:53:40 43 Down the bottom at 15:30 do you see that you attend a
15:53:50 44 meeting with Detective Smith of the SDU and Detective
15:53:53 45 Bateson?---Yes.
46
15:53:55 47 Re DSU issues re 3838?---Yes.

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5699

O'BRIEN XXN - IN CAMERA

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1
15:54:01 2 It says, "Information from both [REDACTED] and [REDACTED]
15:54:06 3 that Peter Howden died as a result of drug overdose that
15:54:12 4 Tony Mokbel had something to do with"---Yes.
5
15:54:18 6 Do you recall that occurring?---I don't recall. I don't
15:54:24 7 recall the death of Peter Howden and when it was but it
15:54:27 8 would be a matter of public record.
9
15:54:31 10 Do you expect that during that meeting you would have
15:54:34 11 discussed the PII issues in relation to 3838?---May have,
15:54:42 12 but then again it was probably covered with Bateson. He
15:54:45 13 would have attended that general office meeting earlier.
14
15:54:48 15 This was something with a Smith of the SDU though?---I'm
15:54:54 16 not sure if I did or not.
17
15:54:56 18 Would you have been liaising with them in relation to those
15:54:59 19 types of issues; that would make sense, wouldn't it?---In a
15:55:02 20 general sense, yes.
21
15:55:05 22 How would those communications take place as between
15:55:09 23 yourself and the SDU, with they be between you and White or
15:55:13 24 you and - - - ?---It would be whoever - - -
25
15:55:15 26 The handler at the time?---Whoever happened to be the
15:55:18 27 handler at the time.
28
15:55:33 29 On 4 August 2006 there's an entry in Mr White's diary in
15:55:41 30 relation to a meeting with you which indicates that Purana
15:55:45 31 are to arrange a conversation re [REDACTED] and [REDACTED] at gaol
15:55:52 32 and that guards are to be briefed re possible threats to
15:55:56 33 human source. Do you know what that was about, that Purana
15:56:01 34 were arranging some kind of conversation between
15:56:04 35 [REDACTED] and [REDACTED]---No. Again, I can read through
15:56:14 36 my diary notes and see if there's anything, unless it's
15:56:18 37 already been done. So this is on 4 August, is it?
38
15:56:23 39 Yes?---Right.
40
15:56:33 41 There's some entry of yours in relation to White and Smith
15:56:38 42 and Green at 4.30 pm?---Yes, that's in relation to Milad
15:56:55 43 Mokbel making a call to 3838 wanting - re Carl Williams.
15:57:01 44 "Advised George Williams to speak to Carl Williams at
15:57:04 45 Barwon at 11:00 on 5/8/06. Checks to be made to visitors
15:57:12 46 to Carl Williams and Milad Mokbel on Sunday 6/8 re meeting
15:57:17 47 at Waterfront Restaurant at 20.30 hours on 30 August.

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5700

O'BRIEN XXN - IN CAMERA

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15:57:22 1 Present was Jacques El-Hage."
2
15:57:25 3 I think you're going on to some other information
15:57:29 4 unrelated?---Right.
5
15:57:29 6 If we can go to the ICR at p.384, please. You'll see the
15:57:57 7 third entry from the top under 10.42, that Ms Gobbo is
15:58:02 8 reporting she's seen the subpoenas for [REDACTED] in
15:58:05 9 relation to the trial of [REDACTED] and [REDACTED] and they've
15:58:09 10 called for everything. Do you see that?---Yes.
11
15:58:15 12 Down the page a bit further on 6 August, you see under the
15:58:25 13 heading of [REDACTED] at 15:59, he's asked Ms Gobbo if
15:58:32 14 she'd read [REDACTED] statements and she tells him no.
15:58:38 15 Ms Gobbo believes that [REDACTED] may have exaggerated some
15:58:42 16 things in his statements and he wanted Ms Gobbo to
15:58:47 17 negotiate with Detective Flynn in relation to his
15:58:52 18 charges?---Right.
19
15:58:53 20 Do you see that?---Yes.
21
15:58:55 22 Over the page on 385. At the top there there's an
15:59:04 23 indication from Ms Gobbo that they need to move the [REDACTED]
15:59:09 24 [REDACTED] plea date because [REDACTED] had become aware of it
15:59:15 25 and she'll mention it to Detective Bateson the next day.
15:59:21 26 Do you see there that underneath that it's then got
15:59:25 27 Detective Bateson has advised in relation to the [REDACTED]
15:59:29 28 court matter and you were advised in relation to some
15:59:33 29 Roberta Williams' threats, do you see that?---Yes.
30
15:59:40 31 If you can have a look at your diary on 7 August. This
15:59:59 32 appears to be a date that had been nominated earlier in
16:00:02 33 relation to a potential pre-trial in relation to Carl
16:00:10 34 Williams' trial. It's noted there that you've got a
16:00:16 35 telephone call at 9.30 with Vaile Anscombe and you then go
16:00:21 36 with detectives Flynn and Rowe to the OPP; is that
16:00:25 37 right?---Yes.
38
16:00:26 39 At 9.55 you're at their address and you speak with
16:00:32 40 Ms Anscombe, Andrew Tinney and Geoff Horgan?---Yes.
41
16:00:39 42 Do you recall what that was about?---Now? No, I don't.
16:00:45 43 But I'm sure those people will probably have some notes of
16:00:48 44 what the conversation was about.
45
16:00:49 46 Were you attending court with your members that day?---No,
16:00:55 47 I don't think so.

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5701

O'BRIEN XXN - IN CAMERA

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These claims are not yet resolved.

1
16:00:57 2 If we can go back to the ICR at 385 on 7 August. We're
16:01:04 3 probably on the page. You'll note under the time 17:13
16:01:12 4 Ms Gobbo indicates that Detective Bateson had advised her
16:01:17 5 that in court Faris - and you understand that to be Faris
16:01:25 6 QC, the barrister for Mr Williams?---That's right, Mr Peter
16:01:29 7 Faris.
8
16:01:30 9 That he'd brought up an alleged conflict with [REDACTED] and
16:01:37 10 that the prosecutor Horgan had suggested Ms Gobbo go to the
16:01:42 11 Ethics Committee and she said she'd already done it and
16:01:46 12 there were no problems, do you see that?---I see that, yes.
13
16:01:50 14 And then it was adjourned to the following Monday?---Right.
15
16:02:00 16 Ms Gobbo said she received an email from Faris who advised
16:02:06 17 that he'll issue an injunction against her to prevent her
16:02:11 18 from acting for [REDACTED] regardless of the Ethics
16:02:15 19 Committee?---Yes.
20
16:02:16 21 She said she'll get advice in relation to that. She may
16:02:22 22 write out a plea for someone else to read out. She said
16:02:24 23 that Mr Faris' behaviour in previous matters was very close
16:02:28 24 to perverting the course of justice?---Right.
25
16:02:31 26 You can see that there?---I can see it there.
27
16:02:35 28 A bit of the pot calling the kettle black, do you
16:02:39 29 think?---A bit of a spat that really would be of little
16:02:43 30 interest.
31
16:02:43 32 Sorry?---A bit of a spat as far as I'm concerned which
16:02:48 33 would be of little interest to me.
34
16:02:50 35 Do you think that Ms Gobbo's conduct might have been close
16:02:53 36 to perverting the course of justice?---Quite possibly.
37
16:03:09 38 On 10 August 2006 there's an entry in Mr White's diary
16:03:17 39 indicating that there was a concern from a particular
16:03:23 40 solicitor who'd told Ms Gobbo that clients didn't want her
16:03:28 41 as a result of Ms Garde-Wilson apparently spreading rumours
16:03:33 42 about her, and there was a reference in Mr White's diary
16:03:38 43 for the need "to dirty Ms Gobbo's reputation so that the
16:03:42 44 crooks thought she could be trusted and wasn't working for
16:03:45 45 the police". Now do you have any recollection of having
16:03:49 46 any such discussions with the SDU about those kinds of
16:03:55 47 matters?---No, I don't.

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5702

O'BRIEN XXN - IN CAMERA

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These claims are not yet resolved.

1
16:04:01 2 On 13 August Mr White has another entry - perhaps I can
16:04:08 3 bring it up, it might be a bit easier. VPL.0100.0096.0353.
16:04:55 4 You'll see at the top on the left-hand side it's 13 August
16:05:01 5 2006 and there's a call from - and there's the initials of
16:05:07 6 handler Green in relation to 3838, do you see that?---Yes.
7
16:05:16 8 There's reference further down the page, it's got KW but I
16:05:22 9 suggest it's meaning CW, as in Carl Williams, "Has a court
16:05:27 10 case tomorrow. Is going to subpoena everything to try and
16:05:29 11 find out if human source helped. Letter could be helpful
16:05:36 12 to stop that". Sorry, I should go back right up to the
16:05:39 13 top, sorry. "Human source has a copy of a letter written
16:05:43 14 by KW calling her a dog", and I suggest that the KW, as I
16:05:48 15 said, is Carl Williams?---Yes.
16:05:49 16
16:05:49 17 "Is concerned about it. Has been sent to a number of
16:05:52 18 criminals. She got the letter from Adam Ahmed. Will
16:05:59 19 collect at 7.30 tomorrow. Will be left at car by human
16:06:04 20 source. Will take straight to Purana". It indicates a
16:06:10 21 number of people that she was meeting with that night. It
16:06:13 22 then goes on, "KW (Carl Williams) has court case tomorrow.
16:06:18 23 Is going to subpoena everything to try and find out if
16:06:20 24 human source helped. Letter could be helpful to stop
16:06:27 25 that". Do you understand that it seems to be being
16:06:32 26 suggested as between the handler Green and Mr White that a
16:06:37 27 letter perhaps with a threatening undertone calling her a
16:06:44 28 dog might be helpful to stop him being successful in any
16:06:49 29 subpoena application that he might bring to find out if
16:06:53 30 she's been helping [REDACTED] ---Well I don't know whether
16:06:58 31 that's the case or not.
32
16:07:00 33 Do you think that that's a fair inference to draw from
16:07:02 34 that?---It might be an inference to draw from that entry,
16:07:06 35 yes.
36
16:07:08 37 Do you see underneath that at 19:05?---Yes.
38
16:07:13 39 There's another "call from", and the initials are those of
16:07:19 40 Green. Mr White's spoken to Mr Green again and Mr Green
16:07:24 41 reports, "Spoke to Purana, Jim O'Brien re letter. Thinks
16:07:30 42 it may be very helpful". Do you see that?---Yeah, I've got
16:07:34 43 no note of that. It was my day off, it was a Sunday.
44
16:07:38 45 Do you accept that you had that conversation with the
16:07:42 46 handler on that day about - - - ?---I may have.
47

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5703

O'BRIEN XXN - IN CAMERA

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These claims are not yet resolved.

16:07:47 1 - - - a Carl Williams' letter and it being helpful in
16:07:49 2 relation to combatting any subpoena arguments?---I say I
16:07:52 3 may have. I have no recollection of it.
4
16:08:05 5 If we move over to the same - over the other side of the
16:08:10 6 page, on 14 August 2006. You'll see another entry from
16:08:16 7 Mr White at 7 am that he's met with you. Do you see
16:08:22 8 that?---Yes.
9
16:08:24 10 There's a discussion in relation to Ms Garde-Wilson
16:08:30 11 referring to [REDACTED] a [REDACTED] to
16:08:34 12 Ms Garde-Wilson, it seems to be?---Yes.
13
16:08:41 14 With an objective of [REDACTED] within
16:08:44 15 the gaol?---Yes.
16
16:08:48 17 And with the objective of [REDACTED] in
16:08:51 18 relation to 3838 for her protection?---Yeah, I see the
16:08:57 19 entry, yes.
20
16:09:02 21 With a third objective there of having the ability to
16:09:05 22 collect intelligence in relation to actions against
16:09:08 23 Ms Gobbo?---Yes, that's correct.
24
16:09:14 25 And the last objective there, "To provide the opportunity
16:09:18 26 to [REDACTED] against Ms Garde-Wilson in relation to
16:09:22 27 any attempt to pervert or contempt of court"?---Yes, I see
16:09:27 28 that.
29
16:09:33 30 It seems as though you and Mr White had some concern about
16:09:38 31 gathering evidence in relation to another lawyer's
16:09:41 32 corruption of the justice system; is that right?---As I
16:09:46 33 say, I don't have any entry about this in my diary, this
16:09:49 34 meeting. I've got myself at the office at 6.40 on that
16:09:53 35 morning. This 14 August you're talking about?
36
16:09:56 37 No, you don't have any corresponding entry?---No.
38
16:09:59 39 But do you accept the accuracy of this entry by
16:10:03 40 Mr White?---As I say, I can't - as I say, it's 13, 14 years
16:10:07 41 ago. I don't have an entry in here. I've got no reason
16:10:11 42 not to have an entry about it.
43
16:10:13 44 Do you accept the accuracy of this entry, presumably
16:10:16 45 contemporaneous, by Mr White of his meeting with you?---It
16:10:19 46 may well be.
47

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5704

O'BRIEN XXN - IN CAMERA

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16:10:21 1 It seems as though a fair inference from this is that you
16:10:26 2 and Mr White were concerned to gather evidence in relation
16:10:29 3 to another lawyer's corruption of the justice
16:10:32 4 system?---That's what this would indicate, yes.
5
16:10:37 6 That other lawyer, as far as you knew, wasn't working for
16:10:40 7 the police and representing people?---No.
8
16:10:49 9 At the same time no steps were being taken to alert the
16:10:52 10 court in relation to the corruption being engaged in by
16:10:55 11 Ms Gobbo?---Not that I'm aware of.
12
16:11:03 13 Was there a view within Purana, within the SDU or within
16:11:09 14 Victoria Police that it was okay for the police to bend or
16:11:12 15 break the rules if the outcome was considered desirable by
16:11:15 16 the police?---No, there was not.
17
16:11:30 18 Later that day there was some further argument before
16:11:33 19 Justice King. Mr Bateson noted in relation to that
16:11:39 20 argument that the judge had said that the police were
16:11:44 21 required to hand over any material that proves their
16:11:48 22 witness is a lawyer, amongst other matters that he
16:11:52 23 noted?---Right.
24
16:11:54 25 If you can go to your diary entry that day at 16:45?---Yes,
16:11:59 26 which date is it?
27
16:12:01 28 This is 14 August still?---Yes.
29
16:12:29 30 That afternoon at 16:45 do you speak to Detective
16:12:33 31 Commissioner Overland re PII issues re Williams?---Yes.
32
16:12:40 33 Do you expect that that might be in response to what the
16:12:43 34 judge has said that afternoon or that day about the police
16:12:48 35 being required to hand over material that proves that their
16:12:52 36 witness is a liar?---I think the note I've got is "Re
16:12:57 37 Williams, to suppression" and something "re disputed
16:13:05 38 documents", "around disputed documents".
39
16:13:08 40 I understand my reading of that is, "Speak to Deputy
16:13:13 41 Commissioner Overland re PII issues re Williams"?---Yes.
16:13:17 42
16:13:17 43 "To supervision and admin."?---Sorry, supervision, admin.
44
16:13:23 45 So a separate kind of entry; is that right?---That's right.
46
16:13:27 47 So the entry in respect of your conversation with Overland

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16:13:30 1 is that it's re PII issues re Williams?---That's correct.
2
16:13:35 3 Do you expect that that discussion that you've had with
16:13:39 4 Mr Overland on that day relates to what's occurred in court
16:13:43 5 that day, which is the judge saying, "Well the police have
16:13:47 6 got to hand over any material that proves that their
16:13:49 7 witness, [REDACTED] is a liar"?---Quite possibly.
8
16:13:55 9 Do you recall what Mr Overland's response was?---No, I
16:14:01 10 don't.
11
16:14:03 12 Aside from that entry in your diary would there be any
16:14:06 13 other record of what occurred in that meeting?---Not unless
16:14:12 14 Mr Overland has something, or the informant in the matter
16:14:21 15 has something.
16
16:14:22 17 It doesn't indicate that anyone but yourself and
16:14:24 18 Mr Overland were present at that meeting; is that
16:14:27 19 right?---No, but the reason for the meeting I'm talking
16:14:29 20 about.
21
16:14:29 22 Yes. The response of the police in relation to Carl
16:14:39 23 Williams' complaint of conflict was not to inform the court
16:14:46 24 in relation to their awareness of the serious conflicts in
16:14:49 25 relation to Ms Gobbo; is that right?---I don't think there
16:14:54 26 was any decision made not to inform the court about
16:14:57 27 anything.
28
16:14:59 29 Well, the court certainly wasn't informed about its
16:15:03 30 knowledge of the conflicts of Ms Gobbo?---Well as I say, I
16:15:09 31 think it would have been a matter that Bateson would have
16:15:12 32 dealt with in relation to the PII issues which would have
16:15:16 33 been discussed with the OPP.
34
16:15:20 35 You've indicated you're aware that Ms Gobbo had very
16:15:23 36 serious conflicts in relation to [REDACTED]---Yes, she had
16:15:26 37 conflicts.
38
16:15:28 39 The court was never informed of that, do you agree?---I
16:15:33 40 don't know. I wasn't at court and I wasn't part of the
16:15:36 41 prosecution.
42
16:15:38 43 Was the response of the police in relation to Mr Williams'
16:15:44 44 complaint about the conflict, at around the time that these
16:15:48 45 subpoena issues were raising their head, to launch an
16:15:51 46 investigation into the fact that Carl Williams had called
16:15:54 47 Ms Gobbo a dog and the threats around that?---It was more

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5706

O'BRIEN XXN - IN CAMERA

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These claims are not yet resolved.

16:15:58 1 about her safety, yes.
2
16:16:03 3 There was a search warrant executed on his cell and his
16:16:07 4 computer was taken away; is that right?---I don't know.
5
16:16:11 6 Was it the case that the - - - ?---I wouldn't imagine a
16:16:14 7 search warrant would be required for a prisoner's cell to
16:16:17 8 be searched.
9
16:16:18 10 Was it the case that the police thought the best defence
16:16:21 11 was offence, that rather than acknowledge the conflicts
16:16:32 12 existed and accede to any subpoena argument, that we'll
16:16:39 13 have an investigation in relation to Mr Williams and the
16:16:44 14 informer or the dog complaints that he was making and have
16:16:48 15 him investigated instead for threatening Ms Gobbo?---No, I
16:16:52 16 think it was more probably about the informer's safety
16:16:55 17 overall given Carl Williams' propensity for violence and
16:16:59 18 organising others do his dirty work.
19
16:17:01 20 You recall that previous entry about the helpfulness that
16:17:04 21 that letter from Mr Williams might provide in relation to
16:17:09 22 defending the subpoena application?---Yes, I do.
23
16:17:15 24 Was it hoped by the police that those threats would mean
16:17:21 25 that the claims being made by Mr Williams wouldn't be taken
16:17:27 26 as seriously?---I don't think that at all. I think
16:17:31 27 probably more about the safety of the informer, as I've
16:17:33 28 said.
29
16:17:34 30 Was it hoped by the police that that matter would assist in
16:17:40 31 any argument to resist disclosure of materials?---I don't
16:17:44 32 believe so, no.
33
16:17:50 34 On 15 August 2006 Mr White has a diary entry indicating
16:17:57 35 that the handler Green had advised that he'd spoken to
16:18:02 36 Purana in relation to the letter, the computer was to be
16:18:07 37 seized at the gaol re Williams, under warrant,
16:18:11 38 okay?---Right.
39
16:18:13 40 On that day, if we look at your diary, at 8.25 you've got a
16:18:24 41 meeting that you've attended at the OPP; is that
16:18:29 42 right?---That's correct.
43
16:18:29 44 A meeting with the DPP Coghlan, with Crown prosecutors
16:18:34 45 Horgan and Tinney?---That's correct.
46
16:18:36 47 OPP solicitors Vaile Anscombe and Kylie

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16:18:39 1 van den Akker?---Yes.
2
16:18:41 3 You were at that meeting along with Deputy Commissioner
16:18:45 4 Overland?---Yes.
5
16:18:46 6 And with four of your detectives, Bateson, L'Estrange, Hatt
16:18:50 7 and Kerley?---Yes.
8
16:18:53 9 That meeting is in relation to PII issues in relation to
16:18:56 10 the statements of both [REDACTED] and [REDACTED] to go back
16:19:00 11 to court?---Yes.
12
16:19:05 13 Or is that just in relation to the statements of [REDACTED]
16:19:07 14 and [REDACTED] and then the next - you seem to write the
16:19:10 15 word "to" when you slightly change the subject; is that
16:19:15 16 right?---That's correct.
17
16:19:17 18 You have that meeting in relation to those matters and then
16:19:21 19 you go back to court?---Yes. No, I don't go back to court,
16:19:25 20 I return to the office.
21
16:19:26 22 It says, "To go back to court", and then, "Request
16:19:31 23 adjournment and further consideration of relevance re a
16:19:35 24 number of the statements"; is that right?---Sorry, yes.
16:19:38 25 But I wouldn't have gone back to court.
26
16:19:41 27 It seems as though there was at least a decision made to go
16:19:45 28 back to court and request an adjournment so that there can
16:19:49 29 be further consideration in relation to the relevance of a
16:19:50 30 number of the statements?---Yes.
31
16:19:54 32 It's apparent there that there's been a discussion about
16:19:56 33 the judge's attitude to the claim of public interest
16:19:59 34 immunity?---As I say, I've got the notes I've got here. I
16:20:06 35 don't recall what the actual discussion was about. It's
16:20:08 36 about PII.
37
16:20:09 38 Did anyone - - - ?---Issues.
39
16:20:12 40 Did anyone advise the OPP, advise the Director or the Crown
16:20:17 41 Prosecutors or any of the solicitors present that police
16:20:20 42 held relevant material relating to Ms Gobbo and her
16:20:22 43 involvement?---Not that I believe.
44
16:20:28 45 Was there ever any discussion that the OPP should be so
16:20:32 46 advised?---I don't recall any such discussion.
47

.05/09/19

5708

O'BRIEN XXN - IN CAMERA

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These claims are not yet resolved.

16:20:36 1 There was never any intention to advise the OPP; is that
16:20:40 2 right?---No.
3
16:20:42 4 Are you agreeing with me?---That's right, in the normal
16:20:45 5 course of events you wouldn't disclose an informer.
6
16:20:48 7 Was it ever disclosed to the legal advisors?---Victoria
16:20:56 8 Police legal advisors?
9
16:20:57 10 Yes?---Not to my knowledge.
11
16:21:00 12 So a decision must have been taken to not disclose that to
16:21:04 13 the legal advisors, surely?---I don't know, there wasn't
16:21:10 14 any conscious decision not to disclose it. As I say, the
16:21:15 15 Assistant Commissioner and Deputy Commissioner was aware of
16:21:18 16 it.
17
16:21:18 18 Clearly there was an appreciation there was material
16:21:22 19 relevant to those prosecutions, there might be a claim of
16:21:25 20 PII, but there was certainly material relevant and
16:21:27 21 potentially disclosable in relation to the police holdings
16:21:31 22 about Ms Gobbo, do you accept that?---Yes.
23
16:21:39 24 The court must become aware of the existence of that
16:21:44 25 material in order to determine where a public interest
16:21:48 26 immunity argument would fall, do you agree?---Well, in my
16:21:55 27 experience that's not always the case. I mean generally if
16:21:58 28 an informer's identity becomes an issue then it becomes a
16:22:02 29 PII argument and then, depending on the court ruling, as to
16:22:07 30 disclosure.
31
16:22:08 32 But if the police are hiding it, they're hiding from their
16:22:11 33 own lawyers, they're not even getting advice about it.
16:22:14 34 They're not seeking any advice and allowing that public
16:22:20 35 interest immunity argument to be made?---Look, I see what
16:22:24 36 you're saying but that wasn't sort of something that came
16:22:27 37 to my mind around the issue. My mind was always focused on
16:22:32 38 the fact of protecting the informer.
39
16:22:37 40 You say Mr Overland was aware of it?---He certainly was, he
16:22:41 41 was at that meeting.
42
16:22:43 43 When you say he's aware of it, he's clearly aware of these
16:22:47 44 issues associated with the police holdings about relevant
16:22:50 45 material involving Ms Gobbo?---Yes.
46
16:22:52 47 Clearly aware that not even the legal advisors are being

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16:22:56 1 told about the existence of that relevant material?---Well
16:22:59 2 unless he'd done something himself independent of us, yes,
16:23:05 3 he was aware of it.
4
16:23:11 5 If you look at your entry, your diary on that date, 10.51.
16:23:25 6 So after the meeting with the OPP you've returned a call
16:23:31 7 from the legal advisor's office, Dianne Preston, re a PII
16:23:36 8 presentation for 16 August 2006?---Yes.
9
16:23:42 10 With David Parsons; is that right?---That's correct.
11
16:23:48 12 Did you ever meet with Mr Parsons yourself?---Look, from
16:23:56 13 memory I don't think so.
14
16:24:01 15 The following day, on 16 August, Mr White's got a diary
16:24:12 16 entry at 7.30 in the morning. It notes, "Re Purana Task
16:24:19 17 Force presentation to CCP". I might just bring this up.
16:24:24 18 It's VPL.0100.0096.0356. Do you see that?---Yes.
19
16:24:51 20 Down the bottom on the left-hand side at 7.30 it indicates
16:24:56 21 that he's doing some correspondence and inquiries firstly
16:25:00 22 in relation to emails and, secondly, in relation to notes,
16:25:03 23 it seems he's making notes, "Re Purana Task Force
16:25:06 24 presentation to CCP"?---Yes.
25
16:25:10 26 Your understanding of what CCP means?---Chief Commissioner
16:25:14 27 of Police.
28
16:25:14 29 That's a presentation that the SDU and Purana have some
16:25:19 30 joint involvement in, it seems?---Yes, it would seem that
16:25:23 31 way.
32
16:25:26 33 If you go further along in that entry he's also got another
16:25:33 34 dash, "Email re Carl Williams to same", do you see
16:25:37 35 that?---Yes.
36
16:25:42 37 If you go to your diary for that day?---Yes.
38
16:25:53 39 You see at 9.10?---Yes, "Return to office. Supervision and
16:25:57 40 admin. duties. Attend to PowerPoint presentation to CCP".
41
16:26:02 42 So you yourself - so Mr White's been working on this Purana
16:26:08 43 Task Force presentation to the CCP and within an hour and a
16:26:16 44 half you're also attending to a PowerPoint presentation for
16:26:19 45 the CCP and it seems as though that is at some time later;
16:26:25 46 is that right?---12 o'clock.
47

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O'BRIEN XXN - IN CAMERA

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16:26:26 1 So you have an entry there at midday, Presentation to
16:26:31 2 CCP"?---Yes.
3
16:26:33 4 To - - -?---DC Overland, Commander Carter, Superintendents
16:26:40 5 Biggin, Blayney, Whitmore, Hollowood, Steve Linnell,
16:26:42 6 Inspector Richard Koo, Detective Superintendent Grant and
16:26:48 7 Superintendent Allen.
8
16:26:51 9 That's a PowerPoint presentation that appears to have
16:26:55 10 something to do with the SDU. Was that a PowerPoint
16:27:01 11 presentation in relation to these PII issues that were
16:27:04 12 occurring?---No, it wouldn't have been.
13
16:27:08 14 Something completely separate?---Yeah, from memory it was
16:27:11 15 about why Purana had been effective in relation to
16:27:18 16 multidiscipline investigation teams rather than single
16:27:23 17 teams.
18
16:27:25 19 Did that include that Purana had been effective because
16:27:29 20 they were using a lawyer to target their clients?---No.
21
16:27:35 22 Were the people present at that meeting, any of them, given
16:27:39 23 any information so that they could understand that there
16:27:43 24 were some serious issues occurring in relation to the use
16:27:46 25 of Ms Gobbo?---Well, a number of them were already aware
16:27:51 26 that we had the informer relationship with Ms Gobbo.
27
16:28:00 28 Were they aware that the court was effectively being misled
16:28:04 29 in relation to her role?---No.
30
16:28:11 31 If we go to your diary on 18 August?---And I don't think
16:28:17 32 the court was being misled.
33
16:28:21 34 Do you think the court systems were being corrupted?---As I
16:28:26 35 say, we'd been to the OPP, we'd been to the Victorian
16:28:31 36 Government Solicitors Office, it was going through the
16:28:32 37 court process.
38
16:28:34 39 Without telling anyone at all about Ms Gobbo's role in this
16:28:38 40 whole process?---As I say, it was going through the process
16:28:41 41 in the normal course of events.
42
16:28:43 43 And the normal course of events was not to disclose things
16:28:46 44 that ought to have been disclosed?---In the normal course
16:28:49 45 of events you didn't disclose informers.
46
16:28:52 47 You understand in the normal course of events, yes, the

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O'BRIEN XXN - IN CAMERA

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16:28:56 1 public interest immunity means that informers won't be
16:29:01 2 disclosed?---Yes.
3
16:29:02 4 But you understand that the court, it's for the court to
16:29:04 5 determine whether that occurs or not. It doesn't always
16:29:07 6 survive, you understand that?---Yes, I understand that.
7
16:29:09 8 And it doesn't - and the cases in which it doesn't survive
16:29:13 9 is when the court says, "Well, on the balance fair trial
16:29:18 10 wins the day. If this guy can't get a fair trial, too bad.
16:29:23 11 We're going to have to disclose the informer or you're
16:29:26 12 going to have to give up your case", you understand
16:29:29 13 that?---Yes.
14
16:29:39 15 For that to happen the court has to be aware of what's
16:29:42 16 going on?---Right.
17
16:29:51 18 If you go to 18 August 2006 in your diary, Mr O'Brien.
19
16:29:58 20 COMMISSIONER: Will you be long? It's almost half past
16:30:01 21 four. I just thought if you're going on to a new topic,
16:30:04 22 otherwise we can finish this one if it's not going to be
16:30:08 23 long.
16:30:11 24
16:30:11 25 MS TITTENSOR: It probably won't be too long but people
16:30:16 26 might be flagging, Commissioner.
27
16:30:18 28 COMMISSIONER: I think it is actually 4.30 now by the time
16:30:21 29 we had that discussion. I think we'll adjourn until 9.30
16:30:25 30 tomorrow, thanks. I should mention we'll adjourn tomorrow
16:30:26 31 at 3.40.
16:30:26 32
16:30:27 33 <(THE WITNESS WITHDREW)
16:30:28 34
16:31:12 35 ADJOURNED UNTIL FRIDAY 6 SEPTEMBER 2019
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