

ROYAL COMMISSION INTO THE MANAGEMENT
OF POLICE INFORMANTS

Held in Melbourne, Victoria

On Monday, 2 December 2019

Led by Commissioner: The Honourable Margaret McMurdo AC

Also Present

Counsel Assisting:	Mr C. Winneke QC Mr A. Woods Ms M. Tittensor
Counsel for Victoria Police	Mr S. Holt QC Ms R. Enbom SC Ms K. Argiropoulos
Counsel for State of Victoria	Mr T. Goodwin
Counsel for Nicola Gobbo	Mr R. Nathwani
Counsel for DPP/SPP	Ms K. O'Gorman
Counsel for CDPP	Ms A. Haban-Beer
Counsel for Police Handlers	Mr G. Chettle Ms L. Thies
Counsel for John Higgs	Ms C. Dwyer
Counsel for Faruk Orman	Mr M. Koh
Counsel for Pasquale Barbaro	Ms G. Connelly
Counsel for the AFP	Ms I. Minnett

15:46:52 1 UPON RESUMING IN OPEN HEARING:
2
15:51:41 3 COMMISSIONER: Yes, we're now in open hearing and I
15:51:43 4 understand the witness will take the oath. Yes, thank you.
15:51:47 5
15:51:48 6 <DEAN ANTHONY MCWHIRTER, sworn and examined:
15:52:01 7
15:52:03 8 MR HOLT: Thank you. Your full name is Dean Anthony
15:52:06 9 McWhirter?---Correct.
10
15:52:07 11 You're an Assistant Commissioner of Victoria
15:52:10 12 Police?---Correct.
13
15:52:11 14 You're presently the Assistant Commissioner with
15:52:13 15 responsibility for the family violence command?---That's
15:52:15 16 correct.
17
15:52:16 18 I understand that's a role you've held since about
15:52:19 19 2015?---That's correct.
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15:52:21 21 For the purposes, Assistant Commissioner, of this Royal
15:52:24 22 Commission have you prepared a statement, a copy of which
15:52:27 23 ought be in front of you, dated 2 December 2019?---Correct.
24
15:52:33 25 Signed by you on the final page?---Correct.
26
15:52:35 27 Is that statement, Assistant Commissioner, true to the best
15:52:39 28 of your knowledge and belief?---It is.
29
15:52:41 30 I tender that statement, Commissioner.
15:52:41 31
15:52:41 32 #EXHIBIT RC815A - (Confidential) Statement of Dean
15:52:43 33 McWhirter dated 2/12/2109.
15:52:43 34
15:52:44 35 #EXHIBIT RC815B - (Redacted version.)
15:52:46 36
15:52:47 37 Assistant Commissioner, just before you're asked questions
15:52:49 38 by Ms Tittensor, counsel assisting the Commission, can I
15:52:53 39 ask you to have a look at paragraph 9 of your statement,
15:52:56 40 please?---Yes.
41
15:53:02 42 We can see there you note that from May 2003 until around
15:53:06 43 October of 2007 you held the rank of Inspector within the
15:53:09 44 Intelligent Covert Support Department?---That's correct.
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15:53:13 46 You indicate there that you performed a number of roles
15:53:15 47 over those years?---Yes.

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Then if we go over to 10 we can see that you've identified by being able to look at your diaries two periods where you were performing temporary duties as an Inspector at the Source Development Unit, the first period from 6 March 2006 until 13 April of that year, so a period of a few weeks?---Yes.

And then a second period between 13 June 2006 and 7 July 2006, again a period of only a few weeks?---Yes.

At that period of time what was your substantive role as an Inspector within that division?---My substantive role as actually the staff officer for Intel and Covert Support to the Commander.

At that stage do you recall who the Commander was, whether it was Mr Thomas or Mr Moloney, or did it shift over that period?---Over the course of the time I was there it shifted from Acting Commander Thomas and also Acting Commander Wilson, and then Mr Moloney was always the Commander of Intel and Covert Support but he didn't arrive for, my recollection is nearly two years.

Just understanding that period of time, given your substantive role as staff officer, do you recall now why it was that you went for a temporary period of time as Inspector in the SDU?---So it's not entirely clear to me but I'm piecing through the time frame. It would appear to me the decisions were already made around the actual Source Development Unit transitioning into the Covert Support Division under - - -

If we can pause there. The Commission has already heard that at this stage, that is in the early part of 2006, the SDU still sat in the same part as that division as HSMU sat?---Yeah, that is correct, the State Intelligence Division.

And then in about the middle of the year it transitions over to the other side of the Unit, if we can put it that way, to become the responsibility of Mr Biggin?---Correct.

This is before that period of time?---Yes.

Again, based on that history do you understand why you were in this role for this short period of time?---Not entirely.

15:55:24 1 If you look at my diary my recollection is that I was
15:55:27 2 directed to be the officer-in-charge of the Source
15:55:31 3 Development Unit on the Friday, by Mr Calishaw at that
15:55:38 4 particular point of time, and I commenced on the Monday.
5
15:55:42 6 As your statement noted and as we've just noted there are
15:55:44 7 two periods of time of a few weeks, separated by a few
15:55:47 8 weeks in between?---Yes.
9
15:55:48 10 Without needing to reveal personal circumstances and
15:55:51 11 detail, what was going on in that intervening period?---So
15:55:54 12 in the intervening period between the two periods of time
15:55:56 13 that I was there I was on sick leave.
14
15:55:59 15 Yes, thank you. Commissioner, that's the
15:56:02 16 evidence-in-chief.
17
15:56:03 18 COMMISSIONER: Thank you. Yes, Ms Tittensor.
15:56:05 19
20 <CROSS-EXAMINED BY MS TITTENSOR:
21
15:56:06 22 You've just been taken to the relevant date period that
15:56:10 23 we're looking at and you were at the Intelligence Covert
15:56:14 24 Support Department between May of 2003, October 2007,
15:56:17 25 that's right?---Correct.
26
15:56:19 27 We understand during the period of time that we're
15:56:22 28 particularly interested in Commander Moloney had
15:56:25 29 substantively taken up his post as Commander of that
15:56:29 30 department?---Quite probably. In terms of time frame I'm
15:56:34 31 not sure.
32
15:56:34 33 When he was on leave do you recall who would act in his
15:56:38 34 stead?---I don't actually recall. It could well have been
15:56:48 35 Rod Wilson, I'm not sure.
36
15:56:51 37 That department had a number of divisions within it, one of
15:56:55 38 which was the Covert Support Division and that was headed
15:57:01 39 by Superintendent Biggin; is that correct?---Correct.
40
15:57:06 41 And the State Intelligence Division was headed by
15:57:07 42 Superintendent Thomas?---Correct.
43
15:57:08 44 And then later taken over by Mr Porter, Superintendent
15:57:12 45 Porter; is that right?---That's correct.
46
15:57:19 47 Is it the case that you had attended some meetings of the

15:57:24 1 steering committee setting up the DSU or the SDU?---That is
15:57:30 2 correct, yes.
3
15:57:31 4 And you had some involvement in discussions in relation to
15:57:34 5 funding of the pilot program?---In my role as staff officer
15:57:40 6 being the secretarial role I was exposed to those
15:57:43 7 discussions, yes.
8
15:57:43 9 You were aware that the DSU was a Unit set up to take care
15:57:47 10 of the most high risk sources being used by Victoria
15:57:50 11 Police?---Correct.
12
15:57:52 13 By their nature high risk sources had high value in terms
15:57:56 14 of intelligence, there would be that balancing
15:58:01 15 exercise?---That would follow, yes.
16
15:58:06 17 That pilot followed on from some disasters that had
15:58:11 18 occurred in terms of informer management within Victoria
15:58:14 19 Police over the preceding number of years?---Not aware of
15:58:17 20 that.
21
15:58:18 22 Within the Drug Squad and the review, the Purton review of
15:58:23 23 the Drug Squad, were you aware of that?---No.
24
15:58:26 25 You were aware of the - - - ?---My apologies, I'm aware
15:58:30 26 that there was a review, I've never seen it.
27
15:58:31 28 Right. Were you aware that there was a new Chief
15:58:35 29 Commissioner's instruction in relation to informer
15:58:37 30 management?---Quite probably, yes.
31
15:58:41 32 That came out in 2003, that would have been something you
15:58:45 33 would have been aware of?---I'm not aware of it now. If
15:58:48 34 you showed me I'm quite happy to have a look to see whether
15:58:51 35 that's the case.
36
15:58:51 37 If that Chief Commissioner's instruction came out in 2003
15:58:55 38 and you had some responsibility in terms of being an
15:59:02 39 officer-in-charge or being an Inspector in charge of the
15:59:06 40 SDU, you would have been aware of that instruction and what
15:59:10 41 that required of you, I take it?---The Chief Commissioner's
15:59:14 42 instruction by its nature goes around and across the
15:59:17 43 organisation so I should well have been across it, yes.
44
15:59:20 45 The role of an officer-in-charge of an informer is - you
15:59:29 46 say in paragraph 10 of your statement, "It's
15:59:33 47 non-operational in the sense that you're not meeting with

15:59:36 1 sources but you're there to oversight handlers and
15:59:39 2 controllers who are meeting with the sources"; is that
15:59:41 3 right?--- Sorry, which - - -
4
15:59:42 5 Sorry, I'm thinking of the - I might be going to the wrong
15:59:47 6 document. But would you agree with that in terms of what
15:59:49 7 the role of an officer-in-charge is in relation to source
15:59:53 8 handling?---Well at that particular point in time there was
15:59:57 9 no actual role of the officer-in-charge of the Source
15:59:59 10 Development Unit. I was just placed down there.
11
16:00:02 12 In terms of what the policy required within Victoria
16:00:08 13 Police?---Look, I don't know. I'd have to look at the
16:00:11 14 document to refresh my memory.
15
16:00:25 16 It's apparent from evidence before the Commission that when
16:00:31 17 Ms Gobbo was registered her informer registration
16:00:36 18 application indicates that Superintendent Thomas was the
16:00:38 19 Local Informer Registrar, you're aware of that?---No.
20
16:00:43 21 That Inspector Calishaw was the officer-in-charge of the
16:00:49 22 DSU?---So my recollection from the documentation is that
16:00:53 23 Inspector Calishaw was the project manager of the pilot. I
16:00:59 24 don't know anything about the actual registration of
16:01:00 25 Ms Gobbo.
26
16:01:03 27 All right. If I can just bring up this document, please,
16:01:11 28 VPL.0002.0001.2232. Do you see this document,
16:01:39 29 Mr McWhirter, it's a Chief Commissioner's instructions in
16:01:41 30 relation to informer management policy?---Yes.
31
16:01:46 32 Those instructions I think were updated in - re-issued in
16:01:52 33 2004 and then re-issued in 2005 from their original in
16:01:57 34 2003?---That's what it says, yes.
35
16:01:59 36 If we just scroll up on that document. Just continue
16:02:04 37 through. You'll see that it provides some various
16:02:10 38 definitions in terms of controller, handler, informer, if
16:02:16 39 we can continue on, Local Informer Registrar, there's the
16:02:20 40 OIC, a police member who is the immediate supervisor of the
16:02:24 41 controller, do you see that?---Yes.
42
16:02:27 43 If we go to paragraph 13. It provides the responsibilities
16:02:37 44 in terms of the OIC. "The OIC is responsible for the
16:02:41 45 supervision of the handler and controller, including to
16:02:43 46 provide advice and guidance to the handler and controller,
16:02:47 47 to evaluate information to be forwarded to the Local

16:02:50 1 Informer Registrar and act as a point of contact between
16:02:52 2 the Local Informer Registrar and the handler and
16:02:55 3 controller", do you see that?---Yes.
4
16:02:57 5 That was essentially your role once you took over
16:03:00 6 responsibility; is that right?---Under that Chief
16:03:05 7 Commissioner's instructions, yes.
8
16:03:09 9 Do you say you would have been aware of that Chief
16:03:12 10 Commissioner's instructions and your responsibilities under
16:03:13 11 that policy at the time?---I make the assumption that I
16:03:22 12 was.
13
16:03:27 14 When Ms Gobbo was registered the documents indicate, as I
16:03:30 15 say, that Superintendent Thomas was the Local Informer
16:03:34 16 Registrar, that Detective Inspector Calishaw was the
16:03:37 17 officer-in-charge?---That may well be the case.
18
16:03:41 19 At some stage you became the officer-in-charge?---I was
16:03:45 20 placed down there to be in charge. There was no role of
16:03:49 21 Inspector in charge of the Source Development Unit.
22
16:03:51 23 No, as we understand it there was an Inspector who had a
16:03:56 24 number of roles, the Inspector or officer-in-charge of a
16:04:03 25 number of different units within that division; is that
16:04:06 26 right?---I'm not quite sure what you mean by that.
27
16:04:08 28 There might have been a number of other units, the
16:04:12 29 Undercover Unit, and other units that the Inspector in
16:04:19 30 charge had responsibility over as well as the SDU?---No.
31
16:04:25 32 So you were told you're now the OIC of the SDU?---As I
16:04:25 33 said, if you look at my diary I was told on the Friday to
16:04:27 34 be down there on the Monday. That's where it starts and
16:04:29 35 stops.
36
16:04:29 37 Was that your only supervisory role at the time or did you
16:04:33 38 have other roles?---I think if you follow in my diary,
16:04:37 39 particularly in the second time that I was there, I was
16:04:39 40 asked to perform that role in charge of the Source
16:04:43 41 Development Unit and the Security and Intelligence Group at
16:04:45 42 the same time.
43
16:04:45 44 In your first period there was it solely looking after the
16:04:48 45 SDU?---That then, at this particular point in time, again
16:04:53 46 if you look through my diary, you'll see that I actually
16:04:56 47 spent a lot of time at the Commonwealth Games Intelligence

16:04:59 1 Office and I actually wasn't at the office at all.
16:05:03 2
16:05:03 3 You received the instruction to go and look after the SDU
16:05:06 4 by Detective Inspector Calishaw?---Yeah, I think he might
16:05:11 5 have been upgraded at that stage.
6
16:05:14 7 Perhaps Acting Superintendent Calishaw at that stage. You
16:05:20 8 would have had an awareness, I take it, of Ms Gobbo
16:05:23 9 generally at that point in time?---No.
10
16:05:25 11 You had no idea of Ms Gobbo being a reasonably high profile
16:05:30 12 criminal barrister?---No.
13
16:05:32 14 Hadn't seen her in the news?---I've got no idea.
15
16:05:37 16 Hadn't heard of her representing gangland figures?---Not to
16:05:41 17 my recollection.
18
16:05:46 19 Your statement indicates that you had two periods with
16:05:49 20 supervision responsibilities at the SDU and we've just,
16:05:52 21 you've just been taken to those, with an intervening period
16:05:58 22 where you had an injury?---Correct.
23
16:06:00 24 The police gazette, if we can just quickly put this
16:06:04 25 document up, VPL.0100.0137.0919, and at p.3 of that gazette
16:06:18 26 you'll see down on the bottom right-hand corner there's a
16:06:23 27 Unit name change and it indicates that the Dedicated Source
16:06:32 28 Unit's being renamed the Source Development Unit, do you
16:06:34 29 see that?---Yes.
30
16:06:36 31 This is a gazette that's dated 29 May 2006. It indicates
16:06:41 32 that for more information about the Source Development Unit
16:06:46 33 contact yourself, do you see that?---I was on sick leave at
16:06:52 34 the time so I'm not sure how somebody would have contacted
16:06:55 35 me.
36
16:06:55 37 But it seems to indicate that you have, you're at least
16:06:58 38 allocated the OIC role, you're the Unit's Detective
16:07:05 39 Inspector?---I've never been a Detective Inspector but
16:07:08 40 that's obviously what somebody's put me down as.
41
16:07:12 42 Do you know who took your role on while you were away from
16:07:15 43 the SDU?---No, and I'm not aware that anybody did.
44
16:07:23 45 I take it when you took on the role you received a briefing
16:07:27 46 about the particular sources that the Unit had?---Again,
16:07:34 47 going back through my diaries it's clear that I had a

16:07:38 1 conversation with Sandy White in relation to how the office
16:07:41 2 functions and also generally in terms of sources.
3
16:07:47 4 When you say generally in terms of sources, did you get
16:07:49 5 more specific in terms of sources?---I can't recall, I've
16:07:53 6 got no recollection of those specific conversations.
7
16:07:57 8 If we can just - if I can just take to you Mr White's diary
16:08:01 9 of 6 March 2006, VPL.0100.0096.0147. Perhaps before I do
16:08:15 10 that I should tender that gazette. It's an attachment to
16:08:22 11 Mr Paterson's statement.
12
16:08:23 13 COMMISSIONER: It is, it's attachment 36 to Neil Paterson's
16:08:29 14 statement. No, the gazette wasn't. That was a
16:08:33 15 Commissioner's instruction. The gazette is not an
16:08:37 16 attachment to Neil Paterson's statement. So we do need to
16:08:39 17 tender it.
18
16:08:41 19 #EXHIBIT RC815A - (Confidential) Police gazette.
20
16:08:50 21 #EXHIBIT RC815B - (Redacted version.)
22
16:08:55 23 MS TITTENSOR: Do you see over on the left-hand side of the
16:08:56 24 page there, Mr McWhirter, at 8.35 he records a meeting with
16:09:03 25 DDI McW, and we take that to be you, and he updates you
16:09:12 26 there?---I'd have to cross-reference with my diary.
27
16:09:15 28 Do you have your diary there?---Go back to the actual date
16:10:05 29 we're after again, 6 March.
30
16:10:07 31 6 March?---Yes.
32
16:10:08 33 You say, maybe to short-circuit it, you say in your
16:10:13 34 statement at paragraph 11, "My diary records on 6 March I
16:10:19 35 had a discussion with Officer Sandy White about SDU targets
16:10:21 36 and procedures. I have no recollection of this
16:10:24 37 discussion"?---I think that was later in the day.
38
16:10:27 39 There is this at 8.35 and there's another meeting, if we
16:10:31 40 scroll down the bottom of the page, at 13:00. Do you see
16:10:35 41 that, "Meet with DDI McWhirter, brief re SDU priorities,
16:10:43 42 issues and ops". Do you see that on the screen?---That's
16:10:46 43 the 6th though, 2006?
44
16:10:49 45 Yes. It's just the top one.
16:11:11 46
16:11:12 47 MR CHETTLE: We can move that down. It's blocking.

16:11:20 1
16:11:22 2 WITNESS: That's not consistent with my diary. My
16:11:24 3 understanding, I didn't arrive at the DSU office until 1
16:11:29 4 o'clock
16:11:29 5
16:11:29 6 MS TITTENSOR: Do you see here at 9 o'clock it's got you -
16:11:33 7 well at 8.35 there's a DDI McW. At 9 o'clock Mr White
16:11:38 8 records another meeting with various people, including
16:11:42 9 Commander Moloney, Blayney, Biggin, De Santo, Calishaw,
16:11:46 10 Porter and yourself and a number of others? Do you see
16:11:54 11 that? Then he's specifically got an entry at 1 pm?---Yes.
12
16:12:01 13 13:00, that he meets you and briefs you re DSU priorities,
16:12:07 14 issues and ops. Do you accept that you had a briefing from
16:12:10 15 Sandy White about those matters?---Oh, if it's in his diary
16:12:16 16 I wouldn't dispute it. That's not what's recorded in my
16:12:19 17 diary. The 9 o'clock meeting is described differently in
16:12:23 18 my diary to how it's described there.
19
16:12:26 20 How is it described in your diary?---It's just described at
16:12:30 21 9 o'clock a controlled operations meeting, it says re
16:12:33 22 legislation, Superintendent Blayney and others.
23
16:12:34 24 You accept that you got a briefing from Mr White at this
16:12:37 25 stage in relation to DSU priorities, issues and
16:12:44 26 operations?---Yes.
27
16:12:45 28 Right. Given that Ms Gobbo was the most resourced
16:12:48 29 intensive source that they had, was providing extremely
16:12:53 30 valuable information, do you accept that you would have
16:12:56 31 been specifically briefed about her?---I'm sure I was but I
16:13:02 32 don't have any specific recollection of that.
33
16:13:04 34 Given that shortly after this time you took - sorry,
16:13:07 35 shortly after this time you took on the role of controller
16:13:11 36 while Mr White was away; is that right?---Yeah, it's a very
16:13:15 37 loose term of controller, but yes.
38
16:13:18 39 Well, you would have understood your responsibilities as a
16:13:21 40 controller, I take it, taking on that responsibility at the
16:13:23 41 time?---In a - not in a practical sense, in the sense of I
16:13:33 42 never had a role of that training in terms of human source
16:13:35 43 management.
44
16:13:37 45 Do you know what you understood your role to be as taking
16:13:41 46 over Mr White's responsibilities as controller?---Well in
16:13:46 47 many respects it's relatively complex but straightforward

16:13:52 1 in the sense that risk issues in relation to the management
16:13:54 2 of sources, issues of risk in terms of handlers and also in
16:14:01 3 terms of concerns about the well-being of all those
16:14:05 4 involved.
5

16:14:06 6 So you would have been very cognisant, presumably, of
16:14:11 7 risk?--I would like to think I was, yes.
8

16:14:16 9 Given that do you - would you assume that you would have
16:14:20 10 read the risk assessment in relation to Ms Gobbo?--I've no
16:14:27 11 independent recollect of ever reading that risk assessment.
12

16:14:31 13 If you were taking over a role like that, that of
16:14:37 14 controller at the DSU, which is controlling the most
16:14:40 15 sensitive human sources and you're sitting in that role of
16:14:45 16 controller do you think you might have read the risk
16:14:47 17 assessment?--Maybe at a point in time. I think it needs
16:14:51 18 to be put in context. If you look at my diaries, the first
16:14:55 19 day I arrived at 1 o'clock, the second day I arrived at 1
16:14:59 20 o'clock, the third day I was basically at the State
16:15:06 21 Intelligence Division being briefed on the Commonwealth
16:15:07 22 Games, and then for the next eight shifts I'm at the
16:15:08 23 Commonwealth Games and plus rest days, so for the first
16:15:09 24 more than three weeks I'm hardly ever in that particular
16:15:11 25 role.
26

16:15:11 27 Did you have a phone?--I may well have done.
28

16:15:19 29 Do you think taking on that role and knowing, assuming you
16:15:25 30 knew that Ms Gobbo was being used at that stage, you'd been
16:15:31 31 briefed on that, and that there was significant goings on
16:15:35 32 in relation to Ms Gobbo, that you would have read her risk
16:15:38 33 assessment?--Again, I don't recall the specific
16:15:41 34 conversation about her or any other particular source that
16:15:46 35 the Source Development Unit was managing, so it's purely,
16:15:51 36 you know, an assumption about what I did or didn't know at
16:15:57 37 that particular point in time.
38

16:15:59 39 It's hard to understand how you might have been in charge
16:16:01 40 of the Source Development Unit as a controller without
16:16:04 41 knowing about Ms Gobbo at that stage?--Yes, so again I
16:16:08 42 wasn't the controller when I first went down there.
43

16:16:11 44 Now I'm asking about the period when you did become a
16:16:13 45 controller?--Well, again, trying to recount my role at
16:16:18 46 that particular point in time, I make the assumption that
16:16:23 47 Officer White either was away doing a program or a course

16:16:27 1 and because I was down there as the Inspector I was placed
16:16:33 2 in the interesting position of being the controller based
16:16:36 3 on the fact that I gather, again trying to piece this thing
16:16:39 4 together, the person that may have been handling Ms Gobbo
16:16:44 5 actually was placed into Mr White's role. So therefore it
16:16:49 6 needed somebody else to be sort of oversighting.
7
16:16:52 8 If we can go to the source management log, please, p.20.
16:17:13 9 Do you see halfway down that page it records on 13 March
16:17:17 10 2006 that Sandy White is to commence leave for a period of
16:17:22 11 a number of weeks there and that you are to act as
16:17:25 12 controller?---Correct.
13
16:17:28 14 That's about a week after you commenced in the role of
16:17:37 15 officer-in-charge; is that right?---Yes.
16
16:17:40 17 Presumably as controller you were responsible for filling
16:17:43 18 out the source management log?---Look, to be perfectly
16:17:47 19 honest I don't recall.
20
16:17:52 21 If Mr White's diaries are blank during that period and
16:18:00 22 you're nominated as controller, presumably you're the one
16:18:05 23 being updated by the handler about what's going on during
16:18:07 24 that period of time?---That would be correct.
25
16:18:11 26 And part of your responsibility would be to be filling out
16:18:14 27 the source management log?---I can't remember whether it
16:18:19 28 was me that completed it or not.
29
16:18:21 30 To be receiving reports you'd need to have some
16:18:26 31 understanding of who the source was, you'd agree with
16:18:32 32 that?---Yes.
33
16:18:34 34 Sorry?---Yes.
35
16:18:38 36 If you have a look through this source management log, and
16:18:42 37 I'll just get you to have a look through there, you see
16:18:45 38 some significant things. One of the operations presumably
16:18:53 39 that Mr White had briefed you on a week before where he
16:18:58 40 says he briefed you on DSU priorities, issues and
16:19:03 41 operations was about a particular operation that was going
16:19:05 42 on at the time for Purana, which was Operation Posse, and
16:19:10 43 there is a significant amount of reportage during this
16:19:14 44 period of targets and individuals associated with Purana
16:19:19 45 operations, do you accept that?---Yes. I've got no
16:19:25 46 independent recollection of that.
47

16:19:28 1 There is information coming from the handler to the
16:19:35 2 controller, it seems, from this source management log in
16:19:37 3 relation to, if we scroll through, the Mokbels. You'll see
16:19:41 4 someone - if I can just - perhaps if we can go back - if we
16:19:50 5 can see there on 14 May, this is the day after you have
16:19:55 6 taken over as controller, on the second line there's a name
16:19:58 7 there. We know that person by the name of [REDACTED] just
16:20:03 8 so you're aware?---Yes.
9
16:20:07 10 Do you see that? There's information coming through in
16:20:11 11 relation to [REDACTED] in relation to Mr Karam, in relation
16:20:15 12 to gangland murder suspects or gangland murder people or
16:20:26 13 accused?---Yeah.
14
16:20:30 15 Solicitors, do you see that?---Yes.
16
16:20:36 17 The Mokbels. If we go to 16 March?---Yep.
18
16:20:47 19 Do you see it records there that Ms Gobbo was to have a
16:20:50 20 meeting with Detective Sergeant Bateson that night in
16:20:57 21 relation to a particular gangland person's statement and
16:21:00 22 that that meeting had been approved?---Yes.
23
16:21:08 24 Presumably that was approved by you?---No recollection.
16:21:14 25 I'm actually, as I said, I'm at the Commonwealth Games
16:21:18 26 office, working in response to the Commonwealth Games. So
16:21:22 27 I have no recollection of making any of those entries or
16:21:25 28 knowledge in relation to that.
29
16:21:31 30 On 19 March Ms Gobbo - there's a - sorry. If you see there
16:21:44 31 on 19 March the handler has advised you of the meeting that
16:21:47 32 had taken place with the human source, Ms Gobbo, on 20
16:21:51 33 March 2006, do you see that? Sorry, that is to take place
16:22:00 34 the following day?---The reference in here, yes.
35
16:22:03 36 On 19 March do you see that?---Correct.
37
16:22:06 38 The handler advises you of a meeting with the human source
16:22:09 39 the following day?---Yes.
40
16:22:13 41 It seems to be they are keeping you updated or the handler
16:22:19 42 or handlers are keeping you updated with what's going
16:22:22 43 on?---Yes, it's referenced in my diary.
44
16:22:28 45 Do you recall being given any information of this kind
16:22:31 46 during this period of time?---Of this what, sorry?
47

16:22:35 1 Of this kind that you're reading in this source management
16:22:38 2 log during this period of time?---No independent
16:22:42 3 recollection at all, no, none.
4
16:22:44 5 Would you have recorded this kind of information in your
16:22:47 6 diary or would you have recorded it straight into the
16:22:49 7 source management log?---I'm not sure that I've actually
16:22:52 8 entered that information into the source management log,
16:22:54 9 because I'm not actually there at the moment. I'm actually
16:22:57 10 working at the Commonwealth Games intelligence office.
11
16:23:01 12 Right. If we can go to 21st of March. You see there on 21
16:23:19 13 March there's a LEAP audit request approved by yourself in
16:23:25 14 relation to an issue that had come up in the previous
16:23:28 15 entry?---Yes.
16
16:23:30 17 That's something that you were advised of?---Yes.
18
16:23:34 19 That was something that related to Milad Mokbel?---Well, is
16:23:42 20 it? I'm not sure. Is it?
21
16:23:48 22 If you see in the entry before that it says Milad Mokbel
16:23:51 23 states he had a police officer run LEAP checks upon [REDACTED]
16:23:58 24 who he suspects of something. You see there then that you
16:24:03 25 have - a LEAP audit request has been approved by
16:24:06 26 you?---Yes.
27
16:24:06 28 Presumably to see if that was correct or not?---And there's
16:24:10 29 an entry in my diary to that effect but I don't recall the
16:24:13 30 circumstances of it.
31
16:24:20 32 On 24 March, if we go further down, Ms Gobbo - you'll see
16:24:29 33 on 24 March Ms Gobbo reports contact with a suspended
16:24:33 34 police member, a Mr Shields, do you see that?---Yes.
35
16:24:37 36 And also reports contact with an ex-member Mr Waters who'd
16:24:44 37 told her that her phone was being intercepted by the
16:24:48 38 AFP?---Yes.
39
16:24:49 40 Following that there's a decision made to [REDACTED] her
16:24:53 41 [REDACTED] because of concern that [REDACTED] might have been
16:24:58 42 [REDACTED] ---Yes.
43
16:24:59 44 And then following that, the next day you authorise a
16:25:04 45 meeting with the source alone?---Yes.
46
16:25:09 47 Because that wasn't the usual process, the usual process

16:25:13 1 was that more than one person should meet her; is that
16:25:17 2 right?---That's correct.
3
16:25:20 4 Do you recall that there were also other inquiries taking
16:25:24 5 place involving Mr Overland at that period of time with the
16:25:30 6 AFP in order to confirm that Ms Gobbo's - whether or not
16:25:37 7 Ms Gobbo's phones were being intercepted?---I'm just
16:25:44 8 checking my diary. I don't recall that as an issue as
16:25:49 9 such, although I've got a reference in my diary in relation
16:25:56 10 to that.
11
16:25:58 12 Do you see - - - ?---It doesn't specifically mention
16:26:00 13 Mr Overland.
14
16:26:03 15 Does the reference in your diary refer to any other follow
16:26:07 16 up other than the LEAP check?---In relation to that
16:26:11 17 particular issue about the AFP?
18
16:26:14 19 Yes?---My entry in my diary for the 24th, it says, "To make
16:26:26 20 inquiries with any Federal agency may raise more issues and
16:26:31 21 identify 3838 without any justification", in other words we
16:26:34 22 wouldn't do that.
23
16:26:35 24 Right. Do you see a couple of lines down on the next page,
16:26:42 25 on 25 March, after some consultation with the investigators
16:26:47 26 that Assistant Commissioner Overland was to inquire with
16:26:52 27 the AFP and confirm whether or not Ms Gobbo's phones were
16:26:56 28 being intercepted? Do you see that?---Yeah, I'm just
16:27:04 29 reading it. Yeah, I'm not aware of that but I see it's
16:27:10 30 there in the log.
31
16:27:11 32 You just can't advance that any further, you weren't
16:27:14 33 involved in any meetings with the Assistant Commissioner or
16:27:16 34 investigators in relation to that matter?---No, because
16:27:19 35 based on what's in my diary it would indicate that we
16:27:25 36 wouldn't have done that.
37
16:27:30 38 I just want to take you to one further - the next matter is
16:27:41 39 there's a reward application in relation to Ms Gobbo,
16:27:45 40 you're aware of that, Mr McWhirter?---Yes.
41
16:27:48 42 If we can bring up VPL.0100.0121.0155 and go to p.2. Do
16:28:01 43 you see this - you recognise your signature as the
16:28:06 44 officer-in-charge?---Correct.
45
16:28:08 46 And dated 28 March 2006, you've approved or recommended
16:28:15 47 approved the request for informer reward?---Yes.

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The basis upon which you've provided that approval was the information contained in the application that followed this page; is that right?---That would be correct, yes.

If we can just scroll up, please. There's a detailed summary section there in which it indicates that Ms Gobbo is providing, or the human source, who you understood to be Ms Gobbo; is that right?---Correct, I think there's reference to it on the documentation ,

So, "This human source is providing extremely sensitive information on a number of very high level drug manufacturers and traffickers and has been doing so for several months. This large volume of information has been found to be exceptionally accurate and timely and is being disseminated to Operation Purana for current operations. It's expected that source will continue to provide vital intelligence in the foreseeable future". It goes on to note that her information has been disseminated to various locations in Victoria Police, including Purana, the ESD, MDID and OCS, do you see that?---Yes.

That must have been your understanding at the time that you were officer-in-charge of the SDU as to what Ms Gobbo was doing?---Based on what's in there in terms of - my recollection is purely based on that. I don't have an independent recollection.

Do you have a recollection about being surprised that a criminal barrister was acting in such a way?---I don't know that I had any particular view on that from my recollection of my diary.

Have you had any concerns at finding out that a criminal barrister was informing against people that she was representing?---Well, my assessment is that I'm not sure that I was there particularly long enough to form any particular view about that.

As a member of Victoria Police when you became aware that a criminal barrister was informing against clients that she was representing, did you have a concern?---I'm not sure that I was aware of that at that particular point in time.

When you became aware of it?---I'm not sure when I became aware of it.

1
16:30:38 2 Right. If we can just scroll through further, please.
16:30:48 3 Keep going. It indicates there that the recommendation
16:30:52 4 relates to a couple of traffic camera penalty notices, do
16:30:57 5 you recall that?---Yes, it's there on the document.
6
16:31:00 7 Then if we can go over to p.4. The document includes the
16:31:05 8 name and date of birth and address details of the human
16:31:11 9 source?---Correct.
10
16:31:17 11 There's a document following that which gets filled out
16:31:20 12 once it goes to a committee; is that right?---I can't
16:31:24 13 remember - the informer payment, that's correct, yes.
14
16:31:31 15 Have you ever taken part in any of those
16:31:36 16 committees?---Possibly. I can't independently recall.
16:31:38 17 Possibly.
18
16:31:39 19 Are there specific people usually present who sit on such
16:31:44 20 committees, are they allocated to specific designations
16:31:48 21 within Victoria Police or how does that happen?---I can't
16:31:52 22 remember who was responsible for the actual informer
16:31:54 23 payments committee. I'd only be going on the roles that
16:32:00 24 are listed on that particular document.
25
16:32:02 26 Have you ever attended any of those committees?---I may
16:32:05 27 have. I've got no recollection of doing so but I may well
16:32:09 28 have.
29
16:32:17 30 I take it you had nothing further to do with that reward
16:32:20 31 application after you recommended it?---I wouldn't think
16:32:24 32 so.
33
16:32:42 34 You go back to perform some further duties at the SDU
16:32:49 35 between June and July 2006; is that right?---Correct.
36
16:32:55 37 Mr White's got a diary entry on 13 June 2006 about a
16:32:59 38 meeting with you in which he refers to 3838 and corruption
16:33:07 39 issues. If we can - - - ?---13th of June?
40
16:33:13 41 13 June 2006. If we can bring up VPL.0100.0096.0272. See
16:33:39 42 it's at the top of the page on the left-hand side?---Yes, I
16:33:44 43 see that.
44
16:33:46 45 Are you able to shed any light on what that update was
16:33:49 46 about to you in terms of 3838, being Ms Gobbo, and what the
16:33:57 47 corruption issues were?---No.

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16:34:01 2 Are you aware that during that period of time there was an
16:34:05 3 ESD investigation and potentially - sorry, a joint ESD/OPI
16:34:11 4 investigation?---Not that I'm aware of, no. That was my
16:34:17 5 first day back after six or seven weeks.

16:34:23 7 Did you make any notes of that meeting yourself?---Yeah,
16:34:27 8 "Discussion with Detective Senior Sergeant Sandy White re
16:34:32 9 office issues".

16:34:38 11 Not long after that I think, as you say, the DSU transfers
16:34:44 12 into the control of a different division; is that
16:34:49 13 right?---Correct.

16:34:50 15 And is that when Inspector Hardy takes over the Inspector
16:34:56 16 role?---From based on my diary that's correct, that's where
16:35:03 17 he was going to take over management of the Source
16:35:05 18 Development Unit.

16:35:12 20 I take it you've got no memory of whether you raised any
16:35:16 21 questions as to the legitimacy of using a defence lawyer as
16:35:20 22 a human source during the period of time that you were
16:35:23 23 officer-in-charge of the SDU?---No recollection or
16:35:26 24 independent recollection of that at all.

16:35:28 26 Thanks Mr McWhirter.

16:35:29 28 COMMISSIONER: Yes, any questions?

16:35:34 30 MS THIES: Yes, Commissioner.

16:35:35 32 COMMISSIONER: Yes.

16:35:36 33 <CROSS-EXAMINED BY MS THIES:

16:35:38 36 Mr McWhirter, we've heard quite a lot of evidence about how
16:35:42 37 the SDU were very good at keeping records and I assume
16:35:45 38 that's something that from your observations you would
16:35:48 39 agree with?---Yes.

16:35:51 41 And so, for example, if Officer White or Officer Smith have
16:35:55 42 a diary entry of a conversation with you, you'd be prepared
16:36:00 43 to accept, wouldn't you, that a conversation did in fact
16:36:02 44 take place?---Correct, and that's reflected in my diaries
16:36:08 45 as well.

16:36:09 47 You've said you were a controller for only a short period

16:36:12 1 in March 2006 and in your statement you've indicated that
16:36:15 2 you were nominated to be available to manage any big issue
16:36:19 3 that arose in Mr White's absence. It was also a
16:36:24 4 requirement, wasn't it, that controllers approve any
16:36:27 5 face-to-face meetings with any source prior to those
16:36:30 6 meetings taking place?---That's correct.
7
16:36:34 8 That was one of the duties that you performed in Officer
16:36:38 9 White's absence?---Yes.
10
16:36:39 11 And at a minimum that would have involved the handler
16:36:42 12 telling you where the meeting was going to take place, who
16:36:47 13 was going to attend and the reason for the meeting, do you
16:36:49 14 agree with that?---That would be my recollection, yes.
15
16:36:55 16 You've been taken briefly to two meetings that you
16:36:58 17 authorised between the handlers and Ms Gobbo. One was on
16:37:03 18 20 March 2006 and there's an entry in Officer Smith's diary
16:37:10 19 at 16:00 hours, "Advised McWhirter re meeting with 3838".
16:37:16 20 Do you have any entry about that?---That's correct, it's in
16:37:19 21 my diary as well.
22
16:37:22 23 On 25 March 2006 there's a second entry in Officer Smith's
16:37:27 24 diary at 10.30 that indicates, "Advised McWhirter [REDACTED]
16:37:33 25 [REDACTED] recorder". Do you have an entry in relation to that?
16:37:39 26 That's on the 25th?---So there was quite a significant
16:37:51 27 discussion around risk.
28
16:37:54 29 Perhaps if you could just read what your diary sets
16:38:01 30 out?---In totality?
31
16:38:02 32 In relation to that particular issue?---The whole issue?
16:38:06 33
16:38:06 34 MR HOLT: I think there might be some issues if it's done
16:38:09 35 that way.
16:38:12 36
16:38:13 37 WITNESS: Sorry, following on from that, there's definitely
16:38:19 38 a reference to Mr Smith arranging delivery in relation to
16:38:24 39 him [REDACTED]
16:38:29 40
16:38:30 41 MS THIES: He was arranging delivery of a particular item
16:38:34 42 to Ms Gobbo?---Correct.
43
16:38:35 44 Given he was arranging to meet Ms Gobbo [REDACTED] that
16:38:38 45 would have been something that was [REDACTED] do
16:38:40 46 you agree with that?---Yes.
47

16:38:41 1 Your diary may reflect this but you would have insisted on
16:38:45 2 being told about the reason for that meeting?---Which
16:38:49 3 relates to the conversation the previous evening.
16:38:56 4
16:38:56 5 The conversation the previous evening was, wasn't it, that
16:39:00 6 Ms Gobbo had told her handlers that Dave Waters had a
16:39:03 7 contact in the AFP who told him that her phone was being
16:39:08 8 intercepted, do you have a note about that?---Yes, I do.
9
16:39:11 10 And so there was a need to give her [REDACTED] as
16:39:15 11 soon as possible?---Correct, that was discussed.
12
16:39:17 13 And they were details that you knew about at the
16:39:20 14 time?---Yes.
15
16:39:21 16 And you'd agree, wouldn't you, that that must have been a
16:39:25 17 big issue because, as is borne out in the records, it was
16:39:28 18 something that Assistant Commissioner Overland was then
16:39:32 19 told about and there was at least a conversation about
16:39:36 20 whether the AFP should be asked about the status of the
16:39:40 21 telephone intercept?---I've no recollection of Mr Overland
16:39:44 22 being involved in this at all, certainly in relation to the
16:39:48 23 risk issue.
24
16:39:49 25 Yes?---And I would expect that regardless of whether I was
16:39:53 26 the controller or not, being the nominal officer-in-charge
16:39:56 27 of the Source Development Unit risk issues would have been
16:39:58 28 provided to me so I was aware of them anyway.
29
16:40:01 30 So whenever there was a significant risk issue raised that
16:40:04 31 was something that, whether you were or controller or
16:40:06 32 Inspector, you'd expect to be told about?---Yes.
33
16:40:10 34 The evidence is that subsequent to that change over of the
16:40:15 35 phones, on 30 March you and Mr Porter attended the SDU
16:40:21 36 where it was agreed that CCRs would be obtained for
16:40:25 37 Mr Waters' phone to see, or to attempt to identify who the
16:40:30 38 AFP contact was. Do you have a record of that?---I don't
16:40:34 39 have a record of that specific, to that specific detail. I
16:40:39 40 certainly have a record of having a conversation at the DSU
16:40:44 41 office with Superintendent Porter regarding operational
16:40:50 42 issues
43
16:40:51 44 So if that's Mr Porter's evidence that that's what that was
16:40:54 45 in relation to, you wouldn't dispute that?---No.
46
16:40:57 47 Another big issue that you were advised about was

16:41:00 1 information from Ms Gobbo that Milad Mokbel had been
16:41:03 2 bragging about a police officer who had been able to
16:41:06 3 conduct a LEAP check on someone who was an informer, and
16:41:10 4 that was something that Ms Tittensor took you to one of the
16:41:13 5 SML entries about. Again, if Officer Smith's diary
16:41:19 6 indicates that you were advised about the detail of that
16:41:21 7 concern, whilst you may not have a recollection of it now,
16:41:25 8 you don't dispute that you knew then?---No, if it was
16:41:29 9 referenced in his diary, no, I don't have any dispute with
16:41:33 10 that.
11
16:41:33 12 That concern sparked a request from you to approve a LEAP
16:41:38 13 audit, do you agree with that?---Quite possibly.
14
16:41:41 15 Firstly, you know what a LEAP audit is?---A LEAP audit?
16
16:41:49 17 A LEAP audit?---Yes.
18
16:41:51 19 You agree, don't you, that that's something that had to be
16:41:54 20 approved by someone of Inspector level or above?---Correct.
21
16:41:58 22 And you agree that if the records show that you approved
16:42:00 23 it, you in fact did so?---Certainly.
24
16:42:03 25 Presumably you would have satisfied yourself that there was
16:42:05 26 good reason to approve the audit?---Correct.
27
16:42:07 28 That would have involved knowing the details surrounding
16:42:10 29 that issue?---Yes.
30
16:42:16 31 In summary you'd agree, wouldn't you, at the time you were
16:42:20 32 acting as controller you were at least aware that Ms Gobbo
16:42:23 33 was speaking to her handlers about Milad Mokbel and Dave
16:42:26 34 Waters?---I don't know the first person specifically from
16:42:30 35 memory but I accept if that's written down in Mr Smith's
16:42:35 36 diary, yes.
37
16:42:36 38 Yes?---Certainly in relation to Mr Waters, yes.
39
16:42:40 40 No one raised any issues with you about her speaking to her
16:42:44 41 handlers about those particular people?---I've no
16:42:48 42 recollection of that.
43
16:42:49 44 And likewise you didn't raise any issues with anyone else
16:42:52 45 up the line?---Not that I'm aware of, no.
46
16:42:59 47 I understand that you weren't the designated Inspector of

16:43:02 1 the SDU but rather you were fulfilling a number of roles at
16:43:06 2 that time?---M'hmm.
3
16:43:08 4 Including, and you've given evidence about working at the
16:43:11 5 Commonwealth Games Intelligence Office. At that stage you
16:43:13 6 would have had an incredibly busy workload?---I wouldn't
16:43:20 7 say I've got any busier workload than anybody else but it
16:43:25 8 may well have been.
9
16:43:27 10 Certainly you had a number of responsibilities over and
16:43:29 11 above what was involved with the SDU?---Yes.
12
16:43:33 13 Given you were dealing with a high risk unit, you'd agree,
16:43:36 14 wouldn't you, that that's a less than ideal
16:43:39 15 situation?---Correct.
16
16:43:39 17 Was your observation that Sandy White was in a similar
16:43:42 18 position, as in his role as a controller also involved him
16:43:48 19 fulfilling other roles within the Unit, effectively acting
16:43:53 20 as the officer-in-charge?---Without doubt.
21
16:44:00 22 Again, given it was brand new or essentially a brand new
16:44:03 23 unit, that situation would have been less than
16:44:06 24 ideal?---Correct.
25
16:44:08 26 You were asked some questions about whether you'd read the
16:44:11 27 risk assessment in relation to Ms Gobbo. I take it that
16:44:15 28 had you wanted to read it that would have been freely
16:44:17 29 available to you?---I don't recall. If I'd asked for it,
16:44:22 30 yes. If I knew it was available, yes.
31
16:44:26 32 You would have known at that stage at the least that the
16:44:29 33 SDU were conducting risk assessments at the time of
16:44:35 34 registering a source?---Yes.
35
16:44:39 36 One of the other things you did at the DSU as their
16:44:45 37 Inspector was to complete the monthly inspection report,
16:44:48 38 correct?---Correct.
39
16:44:50 40 Our records indicate that you completed monthly reports for
16:44:54 41 February, March, May and June of 2006, do you agree with
16:44:58 42 that?---I'm happy to accept that.
43
16:45:01 44 I just want to read you a portion from those reports.
16:45:04 45 Commissioner, these are documents that we've asked to be
16:45:07 46 produced to the Commission. I understand they're still
16:45:10 47 being PII reviewed by Victoria Police as they reveal other

16:45:14 1 sources but as we understand it they're on their way to the
16:45:19 2 Commission. Perhaps for the time being I'll just read the
16:45:22 3 relevant sections and they can be tendered later.
4

16:45:24 5 COMMISSIONER: All right then.
6

16:45:28 7 MS THIES: Mr McWhirter, in the March 2006 report, at that
16:45:34 8 stage the report indicates there are [REDACTED] sources and you
16:45:38 9 identified as the emerging risks that, "The DSU is
16:45:43 10 critically understaffed. During March only two members at
16:45:47 11 the office. Placed considerable pressure and stress on
16:45:50 12 those members required to manage all human sources". One
16:45:55 13 of the other emerging risks identified was contact reports
16:45:59 14 delays. "DSU reports are very detailed and is taking
16:46:02 15 longer for them to be completed in accordance with policy.
16:46:05 16 Due to limited staff this will become a compounding problem
16:46:09 17 as more human sources are managed by the SDU. DSU members
16:46:14 18 have to spend an inordinate amount of time on the computer
19 converting documented human source involvements into
20 contact reports. This is reducing our effectiveness".
21 Having heard that, do you agree that they were concerns you
22 held in March 2006?---Sounds like me, yes.
23

16:46:31 24 In April 2006 Officer White completes the inspection report
16:46:36 25 and that's because, as I understand it, you're on sick
16:46:40 26 leave, and at that stage there was [REDACTED] sources and again
16:46:45 27 under emerging risks Officer White's identified workload.
16:46:50 28 "The need for admin. support at DSU is urgent. The number
16:46:56 29 of contact reports will increase with the arrival of new
16:47:00 30 staff. Current Inspector is now on sick leave until June".
16:47:04 31 He subsequently writes, "McWhirter commenced sick leave on
16:47:11 32 18 April 06 and not expected back until May/June 06. He's
33 not being replaced, nor is upgrading available as a
34 consequence of insufficient inspectors within the
16:47:15 35 division". You were asked whether someone else took on
16:47:17 36 your role during sick leave. Does that now refresh your
16:47:20 37 memory, that in fact there wasn't anyone available to do
16:47:23 38 so?---I think that's symptomatic of the fact that there was
16:47:28 39 no official role in the Source Development Unit in the
16:47:31 40 first place. And I was placed down there, in my
16:47:34 41 recollection, if you actually look, as I said, at the
16:47:37 42 timeline, I think I was put down there as part of the
16:47:38 43 change over to the other division. My assessment is that
16:47:41 44 those conversations were probably already had and that I
16:47:43 45 was there for a particular purpose whilst that change over
16:47:45 46 took place.
47

16:47:49 1 Do you recall - - -
2
16:47:50 3 COMMISSIONER: Sorry, what was the purpose?---Well,
16:47:53 4 Commissioner, if you look through my diary, trying to
16:47:57 5 recollect and reconstruct what took place, my assessment is
16:48:00 6 that a decision for the Source Development Unit to move
16:48:02 7 over to the Covert Support division had already probably
16:48:05 8 been made and I was just there as part of that change over
16:48:09 9 period.
10
16:48:10 11 Baby-sitting is the term that's been used from time to time
16:48:13 12 in this Commission?---Correct, because there was never a -
16:48:16 13 it's unusual. Why was I put down there all of a sudden
16:48:21 14 when there'd never been an Inspector permanently there
16:48:24 15 anyway? And then very early on in my second time there, I
16:48:26 16 think in the second week, I was told that the actual Unit
16:48:28 17 was going across to Mr Biggin's division. So if you
16:48:32 18 actually timeline that out, I'm there for a very, very
16:48:35 19 short period of time. Half my time attending in the first
16:48:38 20 four weeks I wasn't even there in a physical sense. And
16:48:41 21 then when I get back after leave I'm being told basically
16:48:44 22 the second week the Source Development Unit is being
16:48:46 23 transitioned into the Covert Support Division. So I'm
16:48:50 24 trying to piece together the timeline of what that looks
16:48:53 25 like. I think a decision had already been made, by the
16:48:56 26 time I was put there, I was told on the Friday to go down
16:49:00 27 there on the Monday, and then when I come back off sick
16:49:02 28 leave it's transitioning anyway.
29
16:49:04 30 And also, from what you've said in your statement, you
16:49:10 31 weren't given any training in source handling and you had
16:49:13 32 no training in source handling?---No, it's not my
16:49:14 33 expertise, it's not my area of competency at all.
34
16:49:23 35 MS THIES: Just in terms of the timeline of you then
16:49:24 36 returning from sick leave, it seems that you've at least
16:49:26 37 completed another two inspection reports once you've
16:49:28 38 returned. So just going back to those. In May of 2006 in
16:49:30 39 your inspection report at that stage it indicates there
16:49:33 40 were [REDACTED] sources. And again, emerging risks that you've
16:49:37 41 identified include workload, admin. support, SDU have none,
16:49:45 42 and then, "Issue is that members have to spend a
16:49:49 43 considerable amount of time transcribing meetings with
16:49:55 44 sources. This reduces there productivity and ability to
16:49:56 45 comply with policy issues". In June 2006, the next
16:50:01 46 inspection report that you complete - - -
47

16:50:05 1 COMMISSIONER: Sorry, is that the one after April?
16:50:07 2
16:50:08 3 MS THIES: The one that I just read from, Commissioner, was
16:50:10 4 May 2006.
5
16:50:13 6 COMMISSIONER: Who completed that one?
16:50:16 7
16:50:16 8 MS THIES: Mr McWhirter.
9
16:50:17 10 COMMISSIONER: Right.
16:50:17 11
16:50:18 12 MS THIES: The next inspection report that you complete,
16:50:25 13 Mr McWhirter, which is the third that you complete, is June
16:50:30 14 2006. It seems by that stage the decision's been made to
16:50:34 15 transfer to Covert Services, or to realign with Covert
16:50:38 16 Services. But again as an emerging issue you indicate that
16:50:42 17 admin. workload issue again. "This admin. issue has been
16:50:46 18 further acknowledged in Superintendent Nolan's audit in
16:50:49 19 June 2006. The lack of admin. support is impacting on
16:50:52 20 timeliness of reports and informed submission. Given the
16:50:56 21 high stress and risk nature of the Unit, priority should be
16:50:59 22 given to admin. support ASAP". Again you'd agree, wouldn't
16:51:05 23 you, if they're issues that you've identified in the
16:51:09 24 inspection reports they're concerns that you had at the
16:51:12 25 time?---Yes.
26
16:51:13 27 Should I tender those now, Commissioner?
28
16:51:15 29 COMMISSIONER: Yes. Have they been given to the
16:51:18 30 Commission?
16:51:18 31
16:51:19 32 MS THIES: They haven't but we've asked for Victoria
16:51:21 33 Police - and Mr Chettle's just indicating that there's an
16:51:24 34 update on that point.
16:51:25 35
16:51:26 36 MR CHETTLE: Sorry, Commissioner, I don't want to
16:51:28 37 interrupt. They're with HSMU for redacting.
38
16:51:31 39 COMMISSIONER: Well they should have been given to the
16:51:34 40 Commission.
16:51:35 41
16:51:35 42 MR HOLT: I'll find out what the situation is,
16:51:37 43 Commissioner. I don't think these sort of updates are
16:51:39 44 helpful. I'll follow up immediately and find out what the
16:51:41 45 story is, Commissioner.
16:51:41 46
16:51:41 47 MR CHETTLE: Can I say this, Commissioner: I raised this

16:51:45 1 issue with the Commission earlier. I've already
16:51:49 2 cross-examined on these documents. We requested them on 21
16:51:53 3 October. My clients carried out the redacting of the
16:51:57 4 documents and sent them so they could be checked.
5
16:51:59 6 COMMISSIONER: The Commission doesn't have them.
16:52:01 7
16:52:02 8 MR CHETTLE: We've been trying to get them to you.
9
16:52:06 10 COMMISSIONER: So there are four of them?
16:52:06 11
12 MR HOLT: If this had been raised earlier, Commissioner, I
16:52:07 13 could have an update. I'll have one immediately for you as
16:52:10 14 soon as I can get one.
15
16:52:10 16 COMMISSIONER: All right. But there are four?
16:52:12 17
16:52:13 18 MS THIES: Yes.
16:52:14 19
16:52:15 20 #EXHIBIT RC816A - (Confidential) Four SDU monthly reports
16:52:17 21 from March to June 2006.
16:52:22 22
16:52:23 23 #EXHIBIT RC816B - (Redacted version.)
16:52:30 24
16:52:30 25 MS THIES: Commissioner, we only have notes of those
16:52:32 26 reports but I understand there's a difference between
16:52:34 27 monthly reports and monthly inspection reports and the
16:52:39 28 reports I've just been reading from are the inspection
16:52:42 29 reports.
30
16:52:43 31 COMMISSIONER: Are they? What we're tendering then are the
16:52:46 32 monthly inspection reports?
16:52:47 33
16:52:47 34 MS THIES: Yes.
35
16:52:48 36 COMMISSIONER: All right then.
16:52:49 37
16:52:50 38 MS THIES: Mr McWhirter, in relation to that admin. issue,
16:52:52 39 you've indicated that the effect of it was to reduce the
16:52:56 40 effectiveness of handlers and the ability to comply with
16:53:00 41 policy. If a handler, for example, is having hours and
16:53:04 42 hours of contact with a source, one of the main priorities
16:53:10 43 would be, wouldn't it, to make a record of what took place
16:53:12 44 to ensure accountability?---Yes.
45
16:53:19 46 If the handlers are spending a lot of their time doing that
16:53:22 47 it follows, doesn't it, that they're not going to be in a

16:53:25 1 position to reflect on every sentence that a source is
16:53:28 2 uttering to them, would you agree with that?---Yes, the
16:53:33 3 sheer volume of contact and the sheer volume of their
16:53:35 4 ability to actually put that material down, yes,
16:53:39 5 absolutely.
6

16:53:40 7 And also, or similarly, spending time getting that material
16:53:45 8 down will mean that handlers aren't really able to go back
16:53:50 9 through earlier contact reports or diary entries, for
16:53:54 10 example, to consider emerging issues as they develop
16:53:58 11 through the ICRs?

16:54:01 12
16:54:01 13 COMMISSIONER: Just before you answer the question, could I
16:54:03 14 just take you back to the premise on which you started your
16:54:07 15 cross-examination, which was that we've heard a lot of
16:54:10 16 evidence about how the SDU were very good at keeping
16:54:13 17 records.
18

19 MS THIES: Yes.
20

16:54:13 21 COMMISSIONER: Now in fact that's not really correct when
16:54:16 22 it comes to the ICRs. I think you're moving on to this now
16:54:21 23 so you might like to correct that. The evidence is that
16:54:24 24 the record keeping in terms of the ICRs is not good.
16:54:30 25

16:54:30 26 MS THIES: Not focusing specifically on the ICRs but your
16:54:35 27 role, Mr McWhirter, included, didn't it, regularly checking
16:54:39 28 off on SDU members' diaries?---That's the role and
16:54:43 29 function, yes.
30

16:54:44 31 So asking specifically about their diary record keeping,
16:54:51 32 you'd agree, wouldn't you, that those records were
16:54:54 33 maintained in a timely manner?---From recollection, yes.
34

16:55:01 35 And there was a level of detail contained in the diaries
16:55:06 36 that was sufficient to at least adduce the details of the
16:55:11 37 conversation taking place, or that had taken place?---I
16:55:16 38 can't recall specifically but their diaries were generally
16:55:18 39 up-to-date from memory.
40

16:55:20 41 Yes?---That's why we signed them, to make sure they were
16:55:24 42 up-to-date at that particular point in time.
43

16:55:27 44 Thank you. You've given evidence that one of your other
16:55:36 45 roles whilst you were Inspector of the SDU was that you
16:55:39 46 were staff officer to the Commander?---So that was my
16:55:42 47 actual gazetted position, that's correct.

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I think you said you weren't sure who the particular Commander was at various points in time. Can I suggest that Mr Moloney's statement indicates that he commenced his role as Commander from 11 July 2005, that's at paragraph 7N. If that's what his statement indicates would you agree with that?---That's when he started but he was already appointed in the position well before that.

Yes. But certainly from July 2005 onwards that was the Commander that you were staff officer for?---I'd accept that, yes.

And how long were you in that role for?---From 2003 to 2007.

Acting as his staff officer you would have had daily contact with him?---If I was in that role because I may well have been doing other duties within the actual Command itself.

Were you aware that Officer White was providing him with regular updates about various issues in the SDU, including Ms Gobbo?---Prior to July?

I can take you to - from October 2005 until February 2006 at least Officer White's diary indicates that he briefed Commander Moloney on at least four occasions?---Quite possibly but I wasn't involved at that particular point in time.

Okay. Counsel assisting asked Mr O'Connor whether his impression of the Source Development Unit was that they were cowboys and it was suggested by that there was a culture of defying management, big egos, resistance to change and excessive risk taking. What do you say about that suggestion?---That's definitely not my view.

From your observations the SDU were an inclusive unit, do you agree with that?---The SDU were exceptionally professional, exceptionally dedicated and selected for the purpose of the role, exceptionally challenging and brand new role into Victoria Police. The way they performed their task under exceptionally challenging circumstances, as are highlighted in terms of my responses in terms of the monthly report, they did an amazing amount of work on behalf of the organisation under really, really challenging

16:58:34 1 circumstances and with what I would say, you know, if we
16:58:40 2 look back on it now, which is alluded to, is insufficient
16:58:44 3 support.
4
16:58:45 5 Yes, thank you. No further questions, Commissioner.
6
16:58:48 7 COMMISSIONER: Yes Mr Holt.
16:58:51 8
9 <RE-EXAMINED BY MR HOLT:
10
16:58:54 11 Assistant Commissioner, you were asked some questions about
16:58:56 12 your role in relation to the steering committee that
16:59:01 13 oversaw the Dedicated Source Unit Pilot, do you recall
16:59:01 14 that?---Yes.
15
16:59:02 16 Just to be clear about it, you indicated your role on that
16:59:05 17 committee was as the secretariat to that
16:59:08 18 committee?---Correct.
19
16:59:09 20 To that extent did you have any substantive decision-making
16:59:13 21 role or anything of that kind?---No, just agendas and
16:59:16 22 minute taking.
23
16:59:17 24 From the point at which you start you told us you got the
16:59:20 25 requirement to go on the Friday and you start on the
16:59:22 26 Monday, on 6 March 2006?---M'mm.
27
16:59:25 28 As I understand your evidence you're there for basically
16:59:28 29 five weeks, then there's seven weeks of sick leave, and
16:59:31 30 then another four weeks or so once you return?---Correct.
31
16:59:34 32 In that initial five weeks you've indicated the first three
16:59:37 33 weeks you spent physically at the Commonwealth Games
16:59:41 34 Intelligence Unit?---That's correct.
35
16:59:44 36 I think after the first couple of days?---Yes.
37
16:59:47 38 Obviously enough that period incorporates at least most of
16:59:50 39 the period of time when you were designated effectively as
16:59:54 40 acting controller for Ms Gobbo between the 13th and 24th of
16:59:58 41 March 2006?---Correct.
42
16:59:59 43 It's been described variously as a short period of time.
17:00:03 44 Even on my poor maths would you agree it's about 11
17:00:06 45 days?---Yes.
46
17:00:09 47 Obviously enough from what you've said, you're not

17:00:12 1 physically at the SDU premises for at least the vast bulk
17:00:16 2 of that time?---That's correct.
3
17:00:17 4 You were taken by my learned friend Ms Tittensor to the
17:00:20 5 SML, as we call it, the source management log which had
17:00:23 6 various entries?---Yes.
7
17:00:25 8 And you indicated you had no memory of making
17:00:29 9 those?---M'mm.
10
17:00:29 11 We've heard evidence that the source management log was, as
17:00:32 12 these all of these sensitive documents were, was physically
17:00:38 13 kept at a designated stand alone unit at the SDU
17:00:40 14 premises?---Yes.
15
17:00:43 16 Understanding that, what do you say to the proposition that
17:00:45 17 you might have filled in those various entries,
17:00:49 18 particularly from 14 March?---I have no recollection of
17:00:52 19 filling in those documents.
20
17:00:53 21 COMMISSIONER: Is it possible someone else filled them in
17:00:55 22 for you?---I think it goes back to the circumstances of
17:00:58 23 what was happening at the time. My assessment is that the
17:01:00 24 person that was handling Ms Gobbo was upgraded into Sandy
17:01:08 25 White's role, which by definition was the controller role.
17:01:11 26 I think a decision was made, looking back at my diary, that
17:01:15 27 that would be inappropriate because that person, Mr Smith,
17:01:18 28 could be a handler on one day and a controller on the next.
17:01:21 29 I think that's where I was elevated into the controller
17:01:24 30 role and my assumption, based on all of that, is that I'm
17:01:27 31 really not physically there and I would say that Mr Smith
17:01:32 32 is probably the one that's actually filled out the log.
17:01:35 33
17:01:35 34 MR HOLT: You were taken to some diary entries, and indeed
17:01:38 35 they're confirmed and set out in paragraph 13 of your
17:01:41 36 statement, where during that period of 11 days you have
17:01:48 37 diary records that indicate you did receive updates from
17:01:51 38 Ms Gobbo's handlers on the 20th, the 21st and the 24th of
17:01:55 39 March 2006?---Yes.
40
17:01:57 41 The last paragraph of your paragraph 13?---Yes.
42
17:01:59 43 You confirm that's consistent with what's in your diaries?
17:02:03 44 You don't need to look we've just been through that
17:02:06 45 process?---Yep, it's based on my diaries.
46
17:02:09 47 Given your knowledge of your own notetaking discipline,

17:02:14 1 would you expect that those are the only times that you
17:02:16 2 received updates from the handlers over that period of 11
17:02:23 3 days?---Yes.
4
17:02:36 5 Yes, thank you, Commissioner. That's the re-examination.
6
17:02:38 7 COMMISSIONER: Thank you. Ms Tittensor.
17:02:40 8
9 RE-EXAMINED BY MS TITTENSOR:
10
17:02:41 11 Mr McWhirter, we know that the SDU were aware of very
17:02:46 12 significant issues in relation to the use of Ms Gobbo. We
17:02:51 13 know that they were concerned about the admissibility of
17:02:55 14 evidence flowing after the arrest of certain people in
17:02:59 15 [REDACTED] of 2006. She had informed on people - I'll just take
17:03:06 16 you through it?---Yep.
17
17:03:07 18 She was informing on certain people, the Mokbels and
17:03:13 19 associates, all right? She was representing a number of
17:03:17 20 those people. Some of those people were arrested and she
17:03:22 21 was brought in to advise those people once they were
17:03:24 22 arrested and the SDU controller and handlers were aware of
17:03:30 23 significant concerns about the subsequent admissibility of
17:03:32 24 evidence that flowed, all right. You understand what I'm
17:03:36 25 saying?---Yes.
26
17:03:39 27 If they were involved in - sorry, I'll withdraw that. What
17:03:45 28 would you expect them to do prior to the arrest of those
17:03:51 29 people if they became aware of those serious ethical
17:03:59 30 issues, serious admissibility issues which might flow, what
17:04:03 31 would you expect them to do?---Was I there then?
32
17:04:07 33 I'm not going to ask you about whether you were there or
17:04:10 34 not. If you were there what would you expect them to do?
17:04:14 35 If you were their officer-in-charge, they're aware
17:04:16 36 Ms Gobbo's been informing on these people, we're just about
17:04:21 37 to arrest one of these people who's her client, and he's
17:04:26 38 probably going to call her for legal advice, what would you
17:04:29 39 expect them to do?---Well it's a pretty complex sort of
17:04:34 40 question trying to actually put yourself back then. In
17:04:39 41 terms of the risk issues, they should be discussed and
17:04:43 42 identified.
43
17:04:44 44 With who?---Well, again as a starting point Mr Sandy White,
17:04:52 45 being the controller, and then in my role as the Inspector
17:04:57 46 at the Unit, should be discussed at this particular point
17:05:04 47 in time.

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Assuming you're not available, who would they go to to discuss such an issue?---That's a great question. In the context of the structure where the Source Development Unit sat, if I wasn't available it should be back to the Superintendent.

Right. If they choose not to do that but just to hide the issue, what do you think of that conduct?---Well I don't know that they did.

Well, assuming that they did, or that they were involved in hiding that conduct once it did occur, from the courts, what would you think about that?---Well it makes a lot of assumptions about whether they did or they didn't. I don't know that they did. You're putting that proposition to me. In terms of risk issues associated with a source, they should be discussed and identified and then you make judgment decisions based on that information.

Okay. Once Ms Gobbo turns up, actually turns up and gives some advice to someone that's arrested on the basis of information that she's provided, talks to that person, assists investigators push them over the line so they become a witness for Victoria Police and other people are then arrested, what do you think about that conduct?---Well firstly I'm not aware of it.

Have you been listening to any media in relation to this Royal Commission?---It's interesting how media actually report these things so accuracy might be challenged. Not particularly.

Okay. I'm perhaps telling you something you didn't know but what do you think about those circumstances? Ms Gobbo has provided information, someone's been arrested, she turns up to advise that person after they've been arrested, she goes into the room with investigators and talks to her clients with a view to getting that client to become a witness against other people who are then arrested who she then also turns up to advise?---Right.

What do you think about that conduct?---About her conduct?

About police conduct?---Well, there's a whole lot of information in there that is quite challenging in terms of working through. You'd have to work through the

17:07:49 1 circumstances as they present themselves. In terms of is
17:07:53 2 that correct, hypothetical, I don't know. Are you asking
17:07:58 3 me a hypothetical question or are you asking me a direct
17:08:02 4 question of what's actually taken place?
5
17:08:05 6 I'm putting to you circumstances that have taken
17:08:07 7 place?---Right.
8
17:08:08 9 And I'm asking you for your view in terms of police
17:08:15 10 conduct. Is it ethical?---I think the issue for the
17:08:21 11 members who are, if they're across that information, are
17:08:24 12 aware of that information, there's a requirement, one, to
17:08:28 13 record it. There's the requirement then to actually
17:08:32 14 disclose it and then for decisions to be made about how
17:08:34 15 that information is actually then managed or the
17:08:37 16 circumstances are managed.
17
17:08:38 18 So there's a requirement to record the fact that those
17:08:41 19 events have happened and you say then a requirement to
17:08:45 20 disclose it?---Yes.
21
17:08:46 22 Who are you talking about disclosing it to?---So again
17:08:48 23 depending on - is this information that the - if we're
17:08:52 24 talking about handlers in terms of information that's been
17:08:55 25 relayed to them by Ms Gobbo or whether they're actually
17:08:58 26 aware of that? I mean it's a bit complicated in terms of
17:09:02 27 just rolling out a scenario like that.
28
17:09:05 29 Handlers are there present on the night when this is all
17:09:07 30 occurring?---Okay, well I'm not aware of that.
31
17:09:09 32 This was something that you've never been made aware
17:09:12 33 of?---No.
34
17:09:14 35 You're not prepared to - I take it you don't condone such a
17:09:21 36 scenario?---Well the scenario is that if they're aware of
17:09:24 37 information that raises concerns in relation to the
17:09:27 38 behaviour of the source, legal professional privilege or
17:09:32 39 information that is concerning, then that should be
17:09:34 40 documented and then raised as an issue.
41
17:09:36 42 If steps are then taken in various court cases such that
17:09:44 43 that information doesn't see the light of day so that
17:09:47 44 people can't challenge the admissibility of evidence, what
17:09:52 45 do you think about that?---Well, again, it's a broad issue
17:10:00 46 in a very short sentence about having to work through what
17:10:03 47 the actual particular issues are without knowing the

17:10:06 1 specifics. In this day and age of disclosure there's a
17:10:10 2 requirement to disclose information.
3
17:10:11 4 There is always a requirement to disclose relevant
17:10:14 5 information so that people might challenge the case and
17:10:17 6 only be faced with admissible evidence; is that
17:10:22 7 right?---Correct.
8
17:10:23 9 All right. So one would assume it should have been
17:10:27 10 disclosed back then, not just this day and age of
17:10:30 11 disclosure?---Again, you're asking me questions I'm not -
17:10:35 12 information I'm not aware of or circumstances I'm not
17:10:37 13 across. So it's a bit hard for me to actually provide you
17:10:41 14 with an accurate answer when I'm not across that particular
17:10:44 15 information.
16
17:10:45 17 Do you think the very least that might have occurred would
17:10:49 18 be to go and get some legal advice?---They may well have, I
17:10:54 19 don't know.
20
17:10:55 21 Thanks Mr McWhirter.
22
17:10:56 23 COMMISSIONER: Yes, thanks Mr McWhirter. You're excused
17:10:59 24 and free to go.
17:11:02 25
17:11:02 26 (Witness excused.)
27
17:11:06 28 <(THE WITNESS WITHDREW)
17:11:06 29
17:11:07 30 COMMISSIONER: The next witness is?
31
17:11:12 32 MR WINNEKE: Mr Blayney. Mr Woods is taking him.
17:11:17 33
17:11:18 34 MS ARGIROPOULOS: Commissioner, I appear on behalf of
17:11:30 35 Mr Blayney.
17:11:42 36
37 COMMISSIONER: Oath or affirmation, Mr Blayney?---Oath,
38 Commissioner.
39
40 Yes.
41
17:11:43 42 <JOHN JOSEPH BLAYNEY, sworn and examined:
17:11:57 43
17:11:57 44 COMMISSIONER: Yes Ms Argiropoulos.
17:11:58 45
17:11:59 46 MS ARGIROPOULOS: Thank you Commissioner. Mr Blayney,
17:12:01 47 could you just repeat your full name, please?---John Joseph

17:12:09 1 Blayney.
17:12:09 2
17:12:09 3 Mr Blayney, are you commonly known as Jack?---That's
17:12:10 4 correct, yes.
17:12:11 5
17:12:11 6 You're currently retired?---That's correct.
17:12:13 7
17:12:13 8 And you were formerly a member of Victoria Police?---Yes.
17:12:16 9
17:12:18 10 Mr Blayney, you've prepared two statements for this Royal
17:12:22 11 Commission?---Yes.
17:12:23 12
17:12:25 13 Your first statement, which was dated 27 March 2019, has
17:12:30 14 already been tendered. Commissioner, that's Exhibit RC69.
17:12:36 15
17:12:36 16 COMMISSIONER: Yes.
17:12:37 17
17:12:37 18 MS ARGIROPOULOS: And do you have in front of you there a
17:12:40 19 copy of your more recent statement?---No, I've got
17:12:44 20 Mr McWhirter's statement here. Yes, I do.
17:12:56 21
17:12:58 22 If you look at the last page, does that statement bear your
17:13:01 23 signature and the date is 25 July 2019?---Yes.
17:13:05 24
17:13:07 25 There's one matter in that statement you seek to
17:13:11 26 clarify?---Yes.
17:13:13 27
17:13:14 28 Perhaps if I just lead you in relation to that. At
17:13:17 29 paragraphs 21 and 22 you refer to 24 July 2007 and your
17:13:27 30 statement suggests that there were two meetings that you
17:13:30 31 attended on that day?---Yes, it does.
17:13:33 32
17:13:34 33 Having reviewed your diaries again prior to giving
17:13:38 34 evidence, what would you like to clarify in relation to
17:13:40 35 that date?---The point of clarification relates to my diary
17:13:47 36 and my interpretation of my diary that there was two
17:13:52 37 meetings on that day. Upon reading the diary again today
17:13:57 38 I, I don't specifically recall the meeting and the way that
17:14:02 39 my words are phrased in that diary entry it could have been
17:14:08 40 words put, written by me in my diary as memory points in
17:14:14 41 preparation for the later meeting so I cannot be sure there
17:14:17 42 were two meetings. It could have been the first set of
17:14:22 43 notes I think at 2 o'clock were about the meeting to come
17:14:25 44 rather than being a separate meeting.
17:14:28 45
17:14:28 46 All right. So although you don't recall this date, it's
17:14:32 47 possible that those earlier notes are in fact your

17:14:35 1 preparation notes for the later meeting?---That's correct.
17:14:39 2
17:14:39 3 Was that your practice at the time, Mr Blayney, that you
17:14:42 4 would sometimes write preparation notes?---At times I would
17:14:47 5 use my diary to take notes of things that I was thinking
17:14:51 6 about that were relevant to a later meeting as a memory
17:14:55 7 prompt for when that meeting took place.
17:14:58 8
17:14:58 9 Thank you. Subject to that clarification are the contents
17:15:00 10 of your statement to the best of your recollection true and
17:15:03 11 correct?---Yes.
17:15:04 12
17:15:04 13 Commissioner, I tender that statement. There will be an A
17:15:19 14 and a B.
17:15:20 15
17:15:21 16 COMMISSIONER: The original statement is just A, is it?
17:15:24 17 It's just A and has it been published or not?
17:15:28 18
17:15:28 19 MS ARGIROPOULOS: It has been published.
17:15:31 20
17:15:31 21 COMMISSIONER: In a redacted form.
17:15:32 22
17:15:32 23 MS ARGIROPOULOS: There's one PII redaction on the first
17:15:35 24 statement.
17:15:36 25
26 #EXHIBIT RC69A - (Confidential) Original statement of Jack
27 Blayney.
28
17:15:42 29 #EXHIBIT RC69B - (Redacted version.)
17:15:42 30
17:15:45 31 #EXHIBIT RC69C - (Confidential) Supplementary statement of
32 Jack Blayney.
33
34 #EXHIBIT RC69D - (Redacted version.)
35
17:15:49 36 Thank you Commissioner.
17:15:49 37
17:15:50 38 COMMISSIONER: Yes Mr Woods.
17:15:51 39
40 <CROSS-EXAMINED BY MR WOODS:
41
17:15:52 42 Thank you Commissioner. Mr Blayney, just one
17:15:52 43 administrative matter before we start. Commissioner,
17:15:56 44 there's a large number, maybe 12 or so, separate diary
17:16:02 45 files that have been produced with separate numbers, I
17:16:05 46 won't go through them now but I'll just tender Mr Blayney's
17:16:12 47 diaries as a bundle and I'll refer to specifics on the way

17:16:17 1 through.
17:16:17 2
17:16:19 3 #EXHIBIT RC817A - (Confidential) Jack Blayney's diary.
17:16:21 4
17:16:22 5 #EXHIBIT RC817B - (Redacted and specific entries.)
17:16:30 6
17:16:30 7 Mr Blayney, you commenced with Victoria Police in
17:16:35 8 1975?---Yes.
17:16:35 9
17:16:36 10 And you've only just recently retired in the last couple of
17:16:40 11 months?---That's correct.
17:16:41 12
17:16:41 13 Until your retirement you were an Assistant Commissioner of
17:16:45 14 Police?---Yes.
17:16:46 15
17:16:46 16 And that's the third highest commissioned rank in Victoria
17:16:51 17 Police, is that correct?---Yes.
17:16:52 18
17:16:53 19 Under Chief Commissioner, Deputy Commissioner, then
17:16:56 20 Assistant Commissioner?---Yes, that's correct.
17:16:57 21
17:16:57 22 And the role that you held was, at the time of your
17:17:01 23 retirement that is, is the Chief Information Officer for
17:17:04 24 Victoria Police?---Yes.
17:17:06 25
17:17:07 26 Now, I only want to very briefly touch on that first
17:17:11 27 statement and I'll do it by way of summary, but essentially
17:17:16 28 it identifies some dealings in 1996 with Ms Gobbo that you
17:17:20 29 didn't have any recollection of at the time of putting the
17:17:23 30 statement together but you were shown a document which I
17:17:26 31 will get brought up on the screen which is just a progress
17:17:30 32 report for an Operation Scorn, so far does that ring a bell
17:17:35 33 with you?---It does now, yes.
17:17:36 34
17:17:37 35 And that you said that- you didn't have a recollection of
17:17:40 36 the particular contents of the document but you did
17:17:44 37 recognise it to be your handwriting?---That's correct.
17:17:47 38
17:17:49 39 That is a document that I think has already been tendered
17:17:52 40 and it's, it ends in 0122. There it is on the screen in
17:18:00 41 front of you. That phrase has been gone over a bit during
17:18:04 42 the hearings. The final phrase there which is the gig,
17:18:09 43 that's referring to Ms Gobbo as - a gig is another name for
17:18:14 44 source, is that right?---That's correct.
17:18:15 45
17:18:15 46 Yes, Nicola Gobbo and it says, "Making arrangements and not
17:18:18 47 liaising. Loose cannon. Was the informer in the

17:18:23 1 ALP/Liberal doc leaked prior to election. Blamed Liberal
17:18:29 2 member". I've read your words correctly there?---Yes.
17:18:34 3
17:18:35 4 At the time of making the statement you didn't recall
17:18:38 5 exactly what the ALP/Liberal document leak was but you
17:18:42 6 accept that at the time that you made the assessment of her
17:18:44 7 being a loose cannon that was something known to
17:18:49 8 you?---Yes. Well, I assume that the comment in regards to
17:18:54 9 "ALP leaked documents leaked prior to election" was an
17:18:59 10 issue of common knowledge around that time.
17:19:02 11
17:19:03 12 I assume that since being shown the document do you have
17:19:08 13 any recollection of the matter involving I think it was a
17:19:11 14 Federal Minister Willis and documents that were provided to
17:19:13 15 him, you don't have any recollection of that?---No, I
17:19:17 16 haven't.
17:19:17 17
17:19:17 18 In any event, your second statement will be the focus of
17:19:21 19 what I want to ask you about. Now, that largely deals with
17:19:26 20 events between 2006 and 2008, do you agree with
17:19:33 21 that?---Yes.
17:19:34 22
17:19:35 23 Your role between late 2005 and September 2008 was Major
17:19:47 24 Crime Tasking and Coordination Manager, is that
17:19:48 25 correct?---Yes.
17:19:49 26
17:19:49 27 That was a role that was within the Crime
17:19:52 28 Department?---Yes.
17:19:52 29
17:19:52 30 And you were the first person to hold that role?---Yes, it
17:19:56 31 was a new role created through a project that, a change
17:20:03 32 project that was implemented in the Crime Department.
17:20:06 33
17:20:06 34 In fact what the role appears to have involved was
17:20:13 35 assisting other parts of the Crime Department with human
17:20:17 36 resources that they might need for particular operations,
17:20:21 37 was that part of it?---Part of it, yes.
17:20:23 38
17:20:23 39 What were the other parts of that role?---The role was to
17:20:27 40 oversee all investigations conducted by the Crime
17:20:32 41 Department, determine the priorities in regards to those
17:20:36 42 investigations, where they would rank in terms of
17:20:39 43 priorities and that was an ever changing daily process.
17:20:42 44
17:20:42 45 Yes?---What resources would be provided for those
17:20:46 46 investigations, ensuring that the investigations were
17:20:50 47 planned, that they had written plans that were approved,

17:20:54 1 and that the investigations were progressing through to
17:20:58 2 completion at a satisfactory rate and that they were being
17:21:04 3 properly managed within the particular squads and Task
17:21:09 4 Forces so that it was an overview role to ensure that the
17:21:12 5 business, I suppose, of managing investigations was as
17:21:16 6 efficient and as effective as it could be.
17:21:21 7
17:21:21 8 When we see in your diaries as we do from to time your
17:21:25 9 presence at - take, for example, the Purana Task Force,
17:21:27 10 would appear to have been weekly meetings. Your role at
17:21:30 11 those was to understand what the needs of the Purana Task
17:21:34 12 Force might be from a resourcing point of view, so far have
17:21:38 13 I got that correct?---That's correct.
17:21:39 14
17:21:39 15 And to assist where possible and weigh up the needs of the
17:21:44 16 Purana Task Force against other resourcing areas, where
17:21:48 17 other resources were needed, is that right?---That's
17:21:51 18 correct.
17:21:51 19
17:21:51 20 Purana was - taking that example, that was established in
17:21:55 21 about, a couple of years before you took that role, I think
17:21:59 22 it might have been in 2003?---Yes, I believe so.
17:22:02 23
17:22:02 24 And grew over the next few years into quite a large Task
17:22:07 25 Force?---Yes, it was certainly one of the higher priority
17:22:13 26 Task Forces or squads in the Crime Department in terms of
17:22:16 27 the investigations it was conducting.
17:22:18 28
17:22:19 29 All right. So you address in your statement some of the
17:22:24 30 entries in your diary and some of the things - that
17:22:27 31 document can come off the screen now I should say. Some of
17:22:32 32 the things that were - - -
17:22:32 33
17:22:32 34 COMMISSIONER: It has been tendered I think.
17:22:34 35
17:22:35 36 MR WOODS: It was tendered back in March I think.
17:22:38 37
17:22:38 38 COMMISSIONER: Exhibit 70.
17:22:40 39
17:22:41 40 MR WOODS: So when you're attending some of the meetings
17:22:43 41 that you identify in your statement and we can see in your
17:22:46 42 diaries, is it the case that the capacity that you were
17:22:51 43 attending those meetings in was essentially to understand
17:22:55 44 resourcing needs and to assist with resourcing?---Yes.
17:22:58 45
17:23:00 46 I want to just jump forward in time. I'll come back to
17:23:05 47 some of those earlier meetings in a moment but just to

17:23:08 1 centre or determine the timing when you thought you came to
17:23:13 2 know that 3838 was in fact Nicola Gobbo was around
17:23:19 3 mid-2007?---Yes.
17:23:20 4
17:23:20 5 And there's an entry in your diary that we'll go to and you
17:23:24 6 address in your statement and you think it might have been
17:23:26 7 around that time that you made the link between 3838 and
17:23:30 8 Nicola Gobbo?---Yes.
17:23:31 9
17:23:32 10 Prior to that it's clear from your diaries and from
17:23:36 11 documents that were referred to in meetings that were you
17:23:41 12 at that 3838 was a topic of discussion in various meetings,
17:23:46 13 do you accept that?---Yes.
17:23:47 14
17:23:48 15 But yet in your mind the two - your recollection is that it
17:23:53 16 was in fact in July 2007 when you actually found out 3838
17:23:57 17 was Gobbo?---That's correct. Obviously there were numerous
17:24:01 18 meetings where 3838 and other human source code numbers
17:24:06 19 were referred to.
17:24:07 20
17:24:07 21 Yes?---But it wasn't until around mid-2007 that I believed
17:24:14 22 or learnt that 3838 was Ms Gobbo.
17:24:18 23
17:24:23 24 Just to go back to the meetings and I'm going to take you
17:24:26 25 to some entries in the early 2006 period from some Purana
17:24:31 26 meetings that you attended. Do I understand correctly that
17:24:35 27 because of your attendance, just focusing only on Purana
17:24:40 28 meetings at the moment, because of your attendance at those
17:24:43 29 meetings, despite your focus and your input being in
17:24:48 30 relation to resourcing, when you attended one of those
17:24:53 31 meetings you were privy to the information that was
17:24:55 32 discussed at the meetings generally, you didn't just come
17:24:59 33 in for a short resourcing part of it and then leave, you
17:25:02 34 would understand, for example, the focus that Purana was
17:25:05 35 taking at a particular period of time, is that
17:25:09 36 correct?---Yes, I - for the majority of meetings, if not
17:25:13 37 all, when Purana was, the Purana briefing would take place
17:25:16 38 I would be present for that meeting. So there wasn't
17:25:20 39 exclusion in terms of just resourcing, it was just simply
17:25:24 40 the meeting.
17:25:24 41
17:25:24 42 Yes. A couple of other Task Forces or perhaps operations -
17:25:30 43 I think they might have been operations - that involved
17:25:34 44 3838 that you seem to have had at least some contact with
17:25:39 45 were Petra and Gosford over the years. You recall Petra I
17:25:43 46 take it?---I recall Petra, I can't recall Gosford.
17:25:46 47

17:25:47 1 Gosford was the operation that was investigating the
17:25:50 2 threats to Ms Gobbo and I think some of those threats were
17:25:54 3 recorded in some of the meetings you were at?---Yes,
17:25:58 4 certainly the reference was made to the threats to Ms Gobbo
17:26:01 5 in some meetings but I can't recall the operation name.
17:26:04 6
17:26:05 7 I just want to understand to the best of your recollection
17:26:09 8 how it was that the Purana Task Force meetings would run.
17:26:14 9 Do you recall whether there was, for example, an agenda or
17:26:25 10 a proposed agenda circulated prior to those Task Force
17:26:29 11 meetings?---It depends on the meetings that you might be
17:26:32 12 referring to.
17:26:32 13
17:26:32 14 They were weekly meetings as I understand it, or were there
17:26:35 15 other ones as well?---There were daily meetings. Every day
17:26:37 16 there was a meeting in regards to the resource requirements
17:26:41 17 for that particular day that I would chair and then there
17:26:44 18 were weekly meetings for Purana and Petra and then there
17:26:47 19 was steering committee meetings as well that were less
17:26:55 20 regular. I can't recall how often they were and I did not
17:26:58 21 go to all of them. Certainly the weekly meetings, if
17:27:01 22 they're the ones you're referring to, involved provision by
17:27:05 23 either the officer-in-charge of Petra or Purana, depends on
17:27:09 24 which meeting it was.
25
17:27:10 26 Yes?---Providing a written note to people who were present.
17:27:13 27
17:27:13 28 This is prior to the meeting?---This is at the meeting.
17:27:15 29
17:27:16 30 At the meeting, yes?---We would then - the meeting would
17:27:21 31 then follow that note in terms of discussion about the
17:27:23 32 issues that might, they might relate to, and at the
17:27:27 33 completion of the meeting those notes were handed back to
17:27:30 34 the officer-in-charge.
17:27:31 35
17:27:31 36 I see. Was there a particular reason why it played out
17:27:34 37 that way rather than holding on to the notes to your
17:27:38 38 recollection?---Basically a security issue.
17:27:40 39
17:27:40 40 I see?---The conversations were about highly sensitive
17:27:45 41 investigations and they did contain information relating to
17:27:51 42 human sources, things of that sensitive nature that we
17:27:56 43 didn't believe it was appropriate that there be multiple
17:27:59 44 copies circulating or available within the organisation.
17:28:01 45
17:28:02 46 As I say we'll go through some of those entries and some of
17:28:07 47 the records that you kept of those meetings. It appears

17:28:10 1 from my reading of yours and other diaries that generally
17:28:16 2 speaking the weekly meetings were attended by firstly,
17:28:21 3 Mr Overland, is that correct?---Sometimes, yes, I think. I
17:28:26 4 don't know whether it was every occasion.

17:28:29 5
17:28:29 6 And Mr O'Brien or Mr Ryan and sometimes both?---Yes.

17:28:33 7
17:28:34 8 And then there might have been a few other individuals who
17:28:36 9 came in from time to time, Mr Brown, Mr Smith, are they
17:28:41 10 names that you remember attending some of these
17:28:43 11 meetings?---Yes. Mr Hollowood and Grant who were in charge
17:28:49 12 of Crime task operations at various times, they were more
17:28:53 13 involved in the day-to-day operations of Purana and Petra,
17:28:57 14 so they were at meetings as well.

17:28:59 15
17:28:59 16 I want to just take you to the first entry I see in your
17:29:02 17 diaries - I should say one of the first, 16 January 2006.
17:29:08 18 The way it will work is I'll get the entry brought up on
17:29:13 19 your screen so that you'll be able to see it. If you need
17:29:16 20 it expanded it in size we can certainly do that. This is
17:29:21 21 16 January 2006, Purana Task Force meeting. For the
17:29:27 22 transcript it's VPL.0005.0156.0001 and it's at pp.3 to 4.
17:29:38 23 Just placing this in time, Ms Gobbo, you didn't know at
17:29:45 24 this stage, but had been registered as a human source in
17:29:49 25 September the year before and at this stage her handlers
17:29:54 26 were having various conversations with her both
17:30:00 27 face-to-face and by telephone about various people that
17:30:05 28 they wanted to target. Now you'll see the name there, the
17:30:11 29 fourth line down, I want to ask you some questions about
17:30:14 30 that particular person. We're not able to use that
17:30:16 31 person's name in the current setting but do you see the
17:30:19 32 name there?---Yes.

17:30:21 33
17:30:24 34 That person was identified in this Purana Task Force
17:30:30 35 meeting as a possible weak link, do you accept that and
17:30:34 36 that's the note you've made?---Yes.

17:30:36 37
17:30:40 38 Those kind of discussions would have been fairly regular
17:30:44 39 things at these meetings as I understand it, for example,
17:30:47 40 despite your focus at the meetings the direction that the
17:30:52 41 Task Force might go in would be the sort of thing, or the
17:30:55 42 focus of the Task Force, sorry, might be the sort of thing
17:30:58 43 that would be addressed in these meetings?---That would be
17:31:03 44 a consideration of mine, for example, the reference to OCE
17:31:06 45 which is the Office of Chief Examiner would be around that
17:31:10 46 being a resource that would be utilised in investigations.
17:31:15 47 The next line talks about issue re staffing. So if there

17:31:18 1 was something in the meeting that related to some support
17:31:20 2 or decision I would need to make around the investigation.
17:31:24 3
17:31:24 4 Yes?---Then I would take a note.
17:31:27 5
17:31:27 6 All right. Now Mr O'Brien's diary - your record sometimes
17:31:32 7 says who the attendees are and sometimes doesn't. I'm not
17:31:37 8 making a criticism there. But Mr O'Brien was at that same
17:31:41 9 meeting and I just want to bring up his diary entry of that
17:31:46 10 same date, this is 16 January 2006. Now, in his diary he
17:31:52 11 talks about narrowing the investigation on to opportunity
17:31:58 12 of rolling that person and it wouldn't surprise you that
17:32:03 13 given the fact that you've recorded him, albeit in the [REDACTED]
17:32:08 14 context, him being a possible weak link, that one of the
17:32:12 15 things that was discussed at that meeting was that there
17:32:16 16 might be an opportunity of rolling that person as well, if
17:32:19 17 that's what Mr O'Brien's diary says?---Yes, certainly.
17:32:22 18
17:32:25 19 And there's a discussion there about the possible
17:32:28 20 introduction of a particular kind of police officer, do you
17:32:33 21 see that?---In mine or - - -
17:32:36 22
17:32:36 23 In Mr O'Brien's. The idea of - - - ?---Yes.
17:32:39 24
17:32:39 25 Introducing?---Sixth line down.
17:32:42 26
17:32:42 27 That's right. That's something that was discussed between
17:32:46 28 the Victoria Police officers who were dealing face-to-face
17:32:49 29 with Ms Gobbo as well. So your recollection is that
17:32:56 30 despite that being perhaps the genesis of that discussion
17:33:01 31 it wasn't, her identity was not something that was
17:33:06 32 discussed at that meeting?---I don't recall. I don't
17:33:09 33 believe so.
17:33:09 34
17:33:09 35 In the fact you can't recall it, because it's a significant
17:33:13 36 issue down the track when you talk about the hypothetical
17:33:16 37 legal opinion and things like that, was there what you
17:33:20 38 might call a penny drop moment where you realise this was a
17:33:24 39 lawyer, because I can tell that later on when you did know
17:33:27 40 you saw the importance of there being legal advice and that
17:33:30 41 things were done properly and aboveboard. Is there a
17:33:33 42 possibility that you heard about it before that but just
17:33:36 43 missed it or - - - ?---I can't recall unfortunately, but I
17:33:41 44 do know that it was sort of like an evolution of thought
17:33:44 45 over time that at some time I understood that 3838 was a
17:33:52 46 lawyer.
17:33:52 47

17:33:53 1 Yes?---I didn't know in what area that lawyer practised in,
17:33:59 2 it was always when the discussion occurred around it being
17:34:04 3 a lawyer, it was around the fact that the criminality that
17:34:10 4 3838 was providing information to Victoria Police on was as
17:34:17 5 a result of a social relationship with criminals, so I
17:34:20 6 didn't know whether this lawyer was a lawyer in taxation,
17:34:24 7 whatever. I didn't know it was a criminal lawyer.
17:34:27 8
17:34:27 9 That moment though in 2007, as I keep threatening we'll get
17:34:31 10 to at some stage, that moment when you realised it was
17:34:35 11 actually Nicola Gobbo, a criminal defence lawyer?---H'mm.
17:34:38 12
17:34:39 13 That answered some of those questions and meant that you
17:34:42 14 were saying, asking whether legal advice had been obtained,
17:34:45 15 so before that you knew there might have been, that 3838
17:34:48 16 was a lawyer at some stage but not the identity or the
17:34:51 17 practice area?---That's right and, as I said, over time I
17:34:54 18 learnt that it was a lawyer practising in criminal law and
17:35:01 19 that was around that time and I recall that I picked up at
17:35:04 20 some stages through overhearing in the briefing, in a
17:35:08 21 briefing, it was a female.
17:35:09 22
17:35:10 23 Yes?---And I was of the view that it was one of two, but I
17:35:15 24 didn't know which one.
25
17:35:17 26 Yes?---And it wasn't confirmed until a little later after
17:35:21 27 that that it was actually Gobbo.
17:35:22 28
17:35:22 29 I see. There's some suggestion in the records that the
17:35:27 30 Commission has been provided with that Hollowood and/or
17:35:30 31 Overland might have referred to Gobbo as the blonde one
17:35:34 32 from time to time, is that a phrase that you recall?---I
17:35:40 33 can't recall that.
17:35:40 34
17:35:41 35 The next Purana entry appears to be - this is a document -
17:35:49 36 there's been some, there was some further diaries,
17:35:55 37 Commissioner, provided overnight, four quite large files.
17:36:01 38 I've been able to access them because counsel for Victoria
17:36:05 39 Police have sent them to me via a secure link. They
17:36:10 40 haven't made their way on to the system yet and they
17:36:12 41 contain some other diary entries that hopefully they'll be
17:36:17 42 there overnight and we can address first thing in the
17:36:20 43 morning. I might just put - are they your diaries sitting
17:36:24 44 next to you there?---Yes.
17:36:26 45
17:36:26 46 There might be a quicker way to do it then. What I'm after
17:36:30 47 is the entry from 23 January 2006 and simply to identify

17:36:39 1 that at that stage, and you can see this is certainly from
17:36:44 2 a resourcing point of view you've made your note,
17:36:48 3 "Operation Posse - surveillance". Do you want me to give
17:37:01 4 you that date again?---You haven't got the page number have
17:37:06 5 you? 23 January 2006.
17:37:07 6
17:37:07 7 That's the one. Unfortunately I don't have the diary page
17:37:11 8 number, no?---Is that the meeting at 14:00?
17:37:19 9
17:37:19 10 This is a few dot points with "Tony Biggin" written in the
17:37:24 11 middle of it and underlined, then above that there's
17:37:27 12 "Operation Posse - surveillance"?---Yes.
13
17:37:30 14 278 I'm told?---Yes, 278.
17:37:34 15
17:37:35 16 The point that I'm wanting to understand is at this stage
17:37:40 17 Posse, under the umbrella of Purana was something that was
17:37:45 18 regularly discussed at Purana Task Force meetings, the
17:37:48 19 weekly meetings, do you agree with that?---This note there
17:37:52 20 relates to the daily morning meeting.
17:37:55 21
17:37:55 22 That's the morning meeting?---If you go to the top there,
17:37:57 23 at 8.15 their morning conference, the list of people, John
17:38:02 24 Whitmore was in charge of the squads.
25
17:38:04 26 Yes?---Richard Grant was in charge of the Task Forces.
27
17:38:07 28 Yes?---Tony Biggin was in charge of the support services.
17:38:10 29
17:38:11 30 Grant is addressing the fact that there will need to be
17:38:13 31 surveillance as part of Operation Posse at that stage and
17:38:16 32 you're making a note of that because you've got to organise
17:38:19 33 the resourcing?---That's right.
17:38:21 34
17:38:21 35 There's just a little bit further down, the version I've
17:38:27 36 got has a black relevance line through the middle of it but
17:38:30 37 then it might be, there's a yellow Post-it Note I think on
17:38:35 38 the left. Something, "Into manager", and then there's a
17:38:38 39 meeting with Overland, Hollowood and Campbell, do you see
17:38:41 40 that?---Yes.
17:38:42 41
17:38:43 42 Just under that, Purana Task Force, that seems to be
17:38:46 43 another meeting later in the day, is that right?---Yes.
17:38:49 44
17:38:50 45 And that person that we were talking about a moment ago who
17:38:53 46 the name we're not using is identified as someone who might
17:38:56 47 be [REDACTED] at that stage?---That's correct.

17:38:59 1
17:39:01 2 Then just further down, this is at 279, it mentions there
17:39:07 3 that there's - so five lines down, something on Posse
17:39:14 4 source?---"Dogs on Posse source."
17:39:16 5
17:39:17 6 What does that refer to?---That's a Surveillance Unit.
17:39:20 7
17:39:21 8 And that is managed by the DSU, the Posse source, you agree
17:39:26 9 with that?---Yes.
17:39:26 10
17:39:27 11 So it was discussed at that meeting that there was a
17:39:30 12 particular source that was being utilised but, as you say,
17:39:33 13 as is recorded there, it doesn't appear even the number was
17:39:36 14 recorded by you, if it was mentioned at all?---That's
17:39:38 15 correct.
17:39:38 16
17:39:42 17 13 February, I don't - we haven't been produced a copy, an
17:39:47 18 entry of this particular diary even in last night's or
17:39:53 19 today's production but I just want you to turn to that
17:39:59 20 page. I just want to understand what happened at that
17:40:01 21 meeting. It should be a few pages over?---Yep.
22
17:40:02 23 Can you tell me the page number at the top of the
17:40:06 24 page?---293.
17:40:07 25
17:40:07 26 Was that a morning meeting or a weekly Task Force
17:40:11 27 meeting?---8.15 was the morning conference. Terry Purton,
17:40:15 28 Graham Collins, Tony Biggin and they are referring to
17:40:20 29 obviously investigations are underway in their areas.
17:40:24 30
17:40:24 31 And any mention there about Posse by name?---It doesn't
17:40:39 32 appear so.
17:40:40 33
17:40:40 34 Is that the only Purana meeting that happens on that day or
17:40:44 35 is there one of the other meetings later in the
17:40:46 36 day?---There could be another meeting later in the day.
17:40:49 37 But that's the morning meeting where everyone is present.
38
17:40:51 39 Yes?---So generally speaking it's the officer-in-charge of
17:40:54 40 the division, which would be either Hollowood, Grant,
17:40:58 41 et cetera, and all the officers in charge of the squads and
17:41:01 42 Task Forces.
17:41:02 43
17:41:02 44 I see. And just looking at your entry of that day, do you
17:41:05 45 see any record of there being another Purana meeting later
17:41:09 46 on in that day?---At 9.15 it doesn't look like it was a
17:41:16 47 meeting, I had a conversation with Assistant Commissioner

17:41:20 1 Moloney.
2
17:41:21 3 Yes?---"Re concerns with Purana ops being hampered at
17:41:25 4 critical time and recommend Interpose and Purana deal
17:41:29 5 directly."
6
17:41:29 7 Yes?---I think that was around just simply the information
17:41:31 8 system to service investigations and there was challenges
17:41:35 9 with it. Purana Task Force meeting at 14:30, or 2.30.
17:41:44 10
17:41:45 11 Who attends that one?---Generally that would be the
17:41:49 12 Superintendent in charge of the division and - - -
17:41:51 13
17:41:51 14 So you haven't recorded it in the diary entry
17:41:54 15 though?---That's who was there.
17:41:56 16
17:41:57 17 Sorry, yes?---No, but generally speaking it's the
17:42:00 18 Superintendent in charge of the division and the
17:42:02 19 officer-in-charge of Purana.
17:42:03 20
17:42:03 21 Yes, I see. Is Posse mentioned in that entry?---Yes.
17:42:09 22
17:42:09 23 Any mention of the source?---No.
17:42:13 24
17:42:13 25 And the individual that we're not naming?---Yes, mentioned.
17:42:17 26
17:42:18 27 And in relation to surveillance or [REDACTED] or what's the
17:42:21 28 entry?---There's just a mention of that person plus two
17:42:29 29 other persons but no commentary around what the context of
17:42:34 30 the conversation was about.
17:42:35 31
17:42:35 32 I might ask if we can get that entry, because I don't see
17:42:39 33 it in the electronic versions, we wouldn't mind having a
17:42:43 34 look through that. I might even have a look at it when we
17:42:47 35 rise today. Turning over in your diary, but again it
17:42:50 36 wouldn't be able to be brought up on the screen because
17:42:54 37 it's not on the system yet, on 30 January 2006 there's
17:42:58 38 another meeting where there are LDs to be installed.
17:43:06 39 Actually that might be a different operation. It's at -
17:43:09 40 14:00 it might be and that's - - - ?---Yep, Purana Task
17:43:17 41 Force meeting.
42
17:43:17 43 That's Overland, Purton, O'Brien and you?---Overland,
17:43:22 44 Purton and Jim O'Brien.
17:43:22 45
17:43:24 46 There's Posse TIs, you see that?---Yes.
17:43:29 47

17:43:29 1 And then there are AFP issues there. Then underneath, I
17:43:34 2 just want to understand, is this a reference to Posse or
17:43:38 3 not, it says, "Possible security implications, Simon to
17:43:45 4 seek liaison at high level", or is that a different
17:43:48 5 operation?---I think it probably relates to the comment in
17:43:51 6 the line above that, "AFP also interested and surveillance
17:43:55 7 and TI on target, possible security implications", I
17:44:00 8 imagine that might be a cross over to some sort of AFP
17:44:05 9 investigation and we need to ensure we don't step on each
17:44:09 10 other's toes.

17:44:09 11

17:44:10 12 You see two lines above there's Operation Posse, in fact
17:44:15 13 those come under a different operation name that starts
17:44:18 14 with a P, might they relate to that?---Could, yes.

17:44:20 15

17:44:21 16 It appears from information available to the Commission
17:44:24 17 that it was at that meeting that Overland approved Jim
17:44:28 18 O'Brien to run two separate diaries. Do you recall there
17:44:33 19 being any conversation about that?---No, no.

17:44:36 20

17:44:36 21 The running of two separate diaries, is that something you
17:44:40 22 ever heard about in your time of policing?---Never. It
17:44:49 23 depends on whether you're referring to official diaries.
17:44:54 24 Members commonly, and I did myself, at times in my career
17:44:57 25 had a day book existing from an official diary.

17:45:01 26

17:45:01 27 The Commission understands the difference between those
17:45:05 28 two. This was running a separate, a separate diary, not
17:45:08 29 just a separate day book?---Official diary.

17:45:11 30

17:45:11 31 And getting approval for it?---No, I cannot recall that.

17:45:15 32

17:45:16 33 The reason being, as you know and I think is in the inside
17:45:20 34 cover of police diaries, there's an obligation there, I
17:45:23 35 think under the police regulations to keep a diary and
17:45:27 36 what, the thing, the item of interest is whether or not
17:45:31 37 there was approval despite that regulation to have two on
17:45:35 38 the go at once rather than just one, but as you say that's
17:45:38 39 not something you've heard before. Now 20 February 2006,
17:45:44 40 there's another Purana Task Force briefing, again this
17:45:49 41 won't be on the system at the moment, but it's Mr O'Brien,
17:45:55 42 Mr Ryan and yourself at 14:00, do you see that?---Yes.

17:45:58 43

17:46:00 44 And you see that again you're listing what the requirements
17:46:09 45 of the investigation are in regards to - - - ?---Resources.

17:46:14 46

17:46:14 47 Resources, yes, that's right. Mr Overland's name isn't

17:46:20 1 recorded there but would it be usual for him to - it seems
17:46:24 2 he did attend that meeting, would it be unusual for you not
17:46:28 3 to record that?---If Mr Overland was there I believe I
17:46:32 4 would have recorded it. There were a lot of meetings that
17:46:35 5 Overland wasn't present at.

17:46:36 6
17:46:36 7 Yes?---At this stage I assume he was still Assistant
17:46:43 8 Commissioner for Crime rather than Deputy Commissioner.

17:46:44 9
17:46:44 10 Yes?---So he would be more involved in the progress of
17:46:49 11 Purana investigations whilst in that role, however there
17:46:52 12 were a lot of meetings that were conducted that he wasn't
17:46:56 13 present at.

17:46:56 14
17:46:57 15 Yes, I see. All right, now [REDACTED] 2006, just to place
17:47:04 16 this in time, there was a significant arrest that happened
17:47:07 17 in the days following this event that we might talk about
17:47:14 18 in a bit more detail in due course, but this is in the
17:47:19 19 system and can be brought up and it's VPL.0005.0156.0012
17:47:27 20 and it's the second page, 0013 of that document. Just
17:47:43 21 while that's being brought up, down the bottom there,
17:47:53 22 "Purana Task Force update, O'Brien and Ryan, [REDACTED]
17:47:58 23 located and there's to be particular resources deployed",
17:48:03 24 do you see that?---Yes.

17:48:04 25
17:48:04 26 And so was it you that would then go to SPU and talk to
17:48:10 27 them about what was needed, is that how it would
17:48:14 28 work?---Not - well if it required Superintendent Biggin's
17:48:18 29 resources I would speak to him about it.

17:48:20 30
17:48:20 31 Yes?---If it was resources I had to find from elsewhere
17:48:25 32 within either the Crime Department or outside the Crime
17:48:28 33 Department, internally within the Crime Department, I would
17:48:31 34 go to the relevant Superintendents to get the resources and
17:48:33 35 a lot of time it was robbing Peter to pay Paul.

17:48:36 36
17:48:38 37 Yes?---Or otherwise go outside, perhaps to regions to try
17:48:41 38 and get resources in to support particular investigations,
17:48:45 39 particularly for LD monitoring.

17:48:47 40
17:48:48 41 The site that had been located is of particular interest to
17:48:53 42 the Commission and the resources that were to be deployed
17:48:56 43 because it was in fact Nicola Gobbo who advised Victoria
17:49:01 44 Police as to where to look for that site and others that
17:49:07 45 we've heard evidence from talked about that being a very
17:49:10 46 significant break through for the Purana Task Force. Do
17:49:15 47 you recall, without Ms Gobbo's involvement for a moment, do

17:49:20 1 you recall there being particular significance placed on
17:49:23 2 the fact that this lab had been located?---Any lab we find
17:49:28 3 is of significance but in the context of Purana, who were
17:49:33 4 focusing on the Mokbel enterprise, it was considered to be
17:49:39 5 a major step forward.
17:49:40 6
17:49:40 7 That was the Posse part of Purana, is that right?---That's
17:49:43 8 correct.
17:49:43 9
17:49:43 10 The operation, yes. Now, given that do you recall whether
17:49:50 11 or not it was identified that it was 3838 who had assisted
17:49:53 12 with that location?---No.
17:49:55 13
17:49:57 14 All right. Mr O'Brien's diary of that same meeting talks
17:50:05 15 about some - in fact I might just get that brought up.
17:50:16 16 This is - I might not have given you a document ID for that
17:50:23 17 but in any event I'll read it to you, it says that it's at
17:50:28 18 the AC's office and it's at 17:00. It says it's the weekly
17:50:33 19 briefing to AC Overland, DS Blayney, Collins, they would be
17:50:44 20 - Collins' attendance, was that an unusual thing or
17:50:48 21 not?---Yes, I don't think Collins was, he may have been
17:50:54 22 back filling in a Superintendent's role at that time, so
17:50:57 23 that would have been a short term assignment situation.
17:51:01 24
17:51:01 25 There's a note in O'Brien's diary that there's, it seems to
17:51:07 26 have been that there was some tape played, perhaps a
17:51:12 27 surveillance, a surveillance tape played at the meeting,
17:51:15 28 would that be an unusual thing to happen, that that would
17:51:19 29 be played to the AC?---Yes, it would be. It's not a usual
17:51:23 30 practice to listen to tape recordings at briefings. You
17:51:29 31 generally rely on what's been told to you by the
17:51:32 32 officer-in-charge of the Purana or Petra or whatever it
17:51:35 33 might have been, rather than actually, it might have been
17:51:38 34 an issue of just, of interest that they played the tape
17:51:41 35 because the Assistant Commissioner might have wanted to
17:51:44 36 listen to it, I don't know. I can't recall it.
17:51:47 37 You don't remember the actual tape being played in those
17:51:52 38 meetings?---No.
17:51:53 39
17:51:53 40 You said a moment ago when I was asking you about how the
17:51:58 41 meetings progressed and Mr Overland's involvement in them,
17:52:01 42 words to the effect that Overland was more involved in the
17:52:04 43 progress of Purana investigations. Was that to the
17:52:08 44 exclusion of other investigations? Did he have a
17:52:12 45 particular focus on Purana or are you talking about his
17:52:15 46 focus was just on how Purana was progressing, what's your
17:52:19 47 recollection?---Mr Overland was focused on operations per

17:52:23 1 se, but in the context of the, combating organised crime
17:52:31 2 and serious crime, the work that Purana was doing was
17:52:36 3 important to him, as it was to everybody, and certainly it,
17:52:41 4 he gave more attention to that work than probably more
17:52:47 5 rudimentary routine type investigations.
17:52:49 6

17:52:49 7 You might think understandable given the significant events
17:52:55 8 that had been happening in Melbourne that Purana was
17:52:58 9 focusing on?---Significant events, high risk, highly
17:53:03 10 sensitive and there was a lot of external interest around
17:53:06 11 how Victoria Police was performing in regards to fighting
17:53:10 12 organised crime.
17:53:11 13

17:53:11 14 Yes, all right. And so in your, to your recollection would
17:53:16 15 he direct Purana in particular ways or would he let it play
17:53:21 16 out himself, was he a decision maker or was he simply
17:53:26 17 someone who would listen to the direction others were
17:53:29 18 taking Purana in?---He would listen, but if he was, got to
17:53:34 19 a situation where either a decision was sought from him he
17:53:39 20 would make decisions. He didn't, he wasn't a directive
17:53:46 21 sort of leader, he wasn't dictating to Purana what they
17:53:50 22 should do in every case. It was a situation if Purana
17:53:55 23 wanted some sort of decision or authority to do something
17:53:58 24 and it was at his level then he would provide that
17:54:00 25 decision.
17:54:01 26

17:54:02 27 Now, obviously from some of the earlier entries I've taken
17:54:09 28 you to the fact of there being a source who was assisting
17:54:13 29 Purana was discussed, albeit perhaps not by name at that
17:54:18 30 stage, but you would have known that there was a particular
17:54:21 31 source they were relying on heavily to progress
17:54:24 32 Purana?---Well there were a number of sources but certainly
17:54:27 33 3838 was the, was the dominant one in terms of reference to
17:54:34 34 in regards to things that were occurring within Purana.
17:54:37 35

17:54:38 36 Doing the best you can to recall, was it your understanding
17:54:41 37 that Overland knew who 3838 was?---I didn't know. I - and
17:54:52 38 it is common practice that it's a need to know basis and if
17:54:56 39 you don't need to know in the role that you're performing
17:55:00 40 then you don't ask, so you're not assessed as a security
17:55:05 41 risk for anything you don't know. I don't know whether
17:55:10 42 Simon Overland took the same approach, but I can't recall
17:55:13 43 ever him talking about knowing the identity of the
17:55:16 44 informer, but he may have. He may have been maintaining
17:55:21 45 strict discipline about how you talk in a meeting around
17:55:24 46 those sorts of things.
17:55:24 47

17:55:25 1 That apparently changed later on, as we can see in various
17:55:30 2 diary entries when, for example, the threats started
17:55:34 3 arriving when it was - and then later on again when it was
17:55:40 4 clear that Gobbo, he wanted to use Gobbo for the purposes
17:55:44 5 of implicating Mr Dale, you would recall that after you
17:55:48 6 became aware in 2007 it was more freely discussed that 3838
17:55:53 7 was Nicola Gobbo?---Certainly in my presence because I was
17:55:56 8 then privy to the information so it was no secret amongst
17:56:01 9 that core group of people. But prior to that, and
17:56:06 10 irrespective of knowing 3838 was Gobbo, there's still
17:56:13 11 discipline around what you record in documents and what you
17:56:17 12 actually say in meetings. You do not use the identity of
17:56:23 13 the informer in discussions.

17:56:25 14
17:56:25 15 The reason that this is an area of interest is that we've
17:56:29 16 obviously had a lot of witnesses from Purana and from the
17:56:33 17 SDU over the last few months but some of the investigators,
17:56:37 18 two in particular from Purana, have said that it wasn't
17:56:42 19 uncommon for them, for it to be explained to them when the
17:56:46 20 SDU rang with hot debriefs that it had come from Gobbo,
17:56:52 21 naming her, and also on other occasions when they used to
17:56:56 22 handle 3838 that they knew that that was Nicola Gobbo
17:56:59 23 anyway. Now, there's that to start with. Then on top of
17:57:03 24 that Mr Purton has given evidence to the Commission it was
17:57:07 25 common knowledge within the Crime Department from an early
17:57:11 26 stage that Nicola Gobbo was an active source, not just
17:57:14 27 3838, but in fact it was Nicola Gobbo. That's not your
17:57:18 28 recollection?---That's not my recollection. Certainly
17:57:20 29 around the time of mid-2007 that was one of the concerns
17:57:27 30 that was, arose, that led to the discussion around her
17:57:32 31 security and changing her registered number, because a lot
17:57:36 32 of people had found out that 3838 was Gobbo.

17:57:41 33
17:57:41 34 And at that stage, or later, did you become aware that the
17:57:45 35 SDU were in fact keeping a running tally, a document where
17:57:48 36 they were, I think they might have called it "3838 known
17:57:52 37 to" and it was a list of all the people they knew or
17:57:55 38 strongly suspected who knew that Nicola Gobbo was a human
17:57:59 39 source, is that something you've heard of before?---No, but
17:58:02 40 it wouldn't surprise me if they did that because simply
17:58:06 41 they're charged with ensuring that the source is managed
17:58:10 42 appropriately and securely, so they would need to
17:58:14 43 understand who has been briefed or who was aware of the
17:58:17 44 true identity of their particular informer.

17:58:19 45
17:58:20 46 Assuming the correctness of the things I've put to you, and
17:58:23 47 you weren't in the hearing to hear the evidence of

17:58:26 1 Mr Purton and from Mr Kelly and other investigators, did
17:58:34 2 you ever got the impression or have you ever got the
17:58:35 3 impression that there was a particular reason why people
17:58:35 4 didn't want you to know that 3838 was Nicola Gobbo?---I
17:58:39 5 hope not.
17:58:40 6
17:58:41 7 You might hope so?---My - I've been involved at different
17:58:49 8 parts of my career in developing human source policy.
17:58:52 9
17:58:53 10 Yes?---And I think people recognise me as one of the, I
17:58:58 11 suppose, management experts in regards to the human source
17:59:03 12 management and I would not tolerate any lax attitudes in
17:59:09 13 regards to reference to human sources. So if someone did
17:59:13 14 in a meeting refer to a human source to disclose the
17:59:17 15 identity to me or others in that meeting of a human
17:59:21 16 source's identity I would show my displeasure.
17:59:24 17
17:59:25 18 Similarly when you can narrow in on the time being in July
17:59:28 19 2007 when you did find out, you were pretty keen to find
17:59:33 20 out there had been legal advice obtained, that's the case,
17:59:37 21 isn't it?---It had concerned me for a little while leading
17:59:40 22 up to it when I knew it was a criminal barrister, not
17:59:44 23 knowing the identity, it concerning me and I did refer the
17:59:49 24 legal situation to a number of people.
25
17:59:51 26 Yes?---And I think that was a short time before, I think it
17:59:54 27 was the 17 July meeting, where it was, the security issues
17:59:58 28 around Gobbo were discussed and a decision was made to
18:00:03 29 review her continued use, that I raised the issue at the
18:00:09 30 same time we should also be looking at the legal situation.
18:00:12 31
18:00:12 32 Yes. We might - unfortunately we'll have to come to that
18:00:15 33 tomorrow I think. I'm about to move on to a new topic.
18:00:19 34
18:00:19 35 COMMISSIONER: It's been a long day although we started
18:00:22 36 late. I thank everybody for sitting late tonight, given
18:00:26 37 that we had a late start because of the unavailability of
18:00:29 38 the hearing room. We'll resume at 9.30 tomorrow, thank
18:00:33 39 you.
18:00:56 40
18:00:57 41 <(THE WITNESS WITHDREW)
18:00:58 42
18:00:58 43 ADJOURNED UNTIL TUESDAY 3 DECEMBER 2019
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