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These claims are not yet resolved.

1 PROCEEDINGS IN CAMERA:

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10:20:15 3 COMMISSIONER: I think, first of all I'll note some changes
10:20:18 4 in appearances today. Ms McCudden, you're appearing for
10:20:37 5 the State of Victoria this morning and Ms Martin for the
10:20:39 6 OPP, otherwise the appearances are as per yesterday.
10:20:43 7
10:20:43 8 MR WINNEKE: Yes, Commissioner.
10:20:45 9
10:20:45 10 COMMISSIONER: Yes, thank you. So we're going to start
10:20:50 11 with the transcript corrections.
10:20:53 12
10:20:54 13 MR WINNEKE: Yes.
10:20:57 14
10:20:57 15 COMMISSIONER: Right. Well I think we were still on
10:20:59 16 Tuesday's as of yesterday. Can we go through those. Thank
10:21:04 17 you. The public hearing on Tuesday.
10:21:09 18
10:21:09 19 MR HOLT: Yes.
20
21 COMMISSIONER: Thank you.
22
10:21:09 23 MR HOLT: Has the Commissioner received, there was an
10:21:11 24 electronic email and a marked up version of the transcript
10:21:16 25 sent through?
10:21:16 26
10:21:16 27 COMMISSIONER: I thought that was about yesterday public's
10:21:20 28 hearing.
10:21:20 29
10:21:21 30 MR HOLT: No, there was also one sent through as I
10:21:21 31 indicated we would. Can I hand up a hard copy,
10:21:29 32 Commissioner, that might be easier. We have a marked up
10:21:31 33 hard copy.
34
10:21:49 35 COMMISSIONER: Yes. This is Tuesday's public hearing, yes.
10:21:52 36
10:21:52 37 MR HOLT: Yes. Commissioner, we went through the proposed
10:21:58 38 redactions at pages - - -
10:22:08 39
10:22:09 40 COMMISSIONER: 1058 is the first one.
10:22:11 41
10:22:12 42 MR HOLT: Yes. They all in effect relate to the same
10:22:15 43 topic, Commissioner.
10:22:16 44
10:22:16 45 COMMISSIONER: Yes.
10:22:16 46
10:22:17 47 MR HOLT: The only matter that's any different from what

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10:22:19 1 was referred to yesterday in that sense is at p.1076.
10:22:29 2
10:22:30 3 COMMISSIONER: What are we doing at 1058? That's marked up
10:22:33 4 in my copy so let's get that sorted first.
10:22:36 5
10:22:37 6 MR HOLT: Commissioner, it was simply to make the
10:22:40 7 transcript consistent in terms of the use of person rather
10:22:43 8 than informer.
9
10 COMMISSIONER: Person, okay, that's fine.
11
10:22:44 12 MR HOLT: Simply that that wasn't required in those
10:22:46 13 circumstances.
10:22:47 14
10:22:47 15 COMMISSIONER: So informer there will be changed to person
10:22:49 16 in the marked up part. Fine, thank you.
10:22:51 17
10:22:52 18 MR HOLT: I won't take the Commissioner through all of
10:22:56 19 those kinds of references because I think the transcribers
10:22:58 20 are dealing with that.
10:22:59 21
10:23:00 22 COMMISSIONER: Right. Then the next one is 1065.
10:23:03 23
10:23:03 24 MR HOLT: 1065, which is just the same issue, Commissioner.
10:23:05 25
10:23:05 26 COMMISSIONER: So again changing just informer to person.
10:23:07 27
10:23:09 28 MR HOLT: It's the discussion about changing informer to -
10:23:11 29 - -
10:23:11 30
10:23:11 31 COMMISSIONER: So all that needs to be done is to change
10:23:14 32 the word informer to person, is that right?
10:23:15 33
10:23:16 34 MR HOLT: Well no. What this does is it's in fact an
10:23:17 35 explanation as to why that was being done, Commissioner.
10:23:19 36 We thought the transcript wouldn't make sense if there was
10:23:23 37 a discussion about changing one to the other. Both before
10:23:27 38 and after it still read person but that is really only to
10:23:30 39 ensure comprehension.
10:23:33 40
10:23:33 41 COMMISSIONER: Okay. All right, so how it should read then
10:23:39 42 is someone should write down on a piece of paper, [Person
10:23:45 43 1], [Person 2], [Person 3] and [Person 4] is, it can be
10:23:49 44 shown to the witness and we will try and do a public
10:23:52 45 hearing without any details coming out that could identify
10:23:58 46 the square bracket persons or endanger them and then it can
10:24:03 47 remain in, the rest of it.

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10:24:06 1
10:24:07 2 MR HOLT: Thank you Commissioner, yes.
10:24:08 3
10:24:08 4 COMMISSIONER: Right. The next one?
10:24:09 5
10:24:10 6 MR HOLT: Page 1076, this is the passage we discussed
10:24:13 7 yesterday afternoon and the only proposed change,
10:24:19 8 Commissioner, is in fact I think, I don't want to get this
10:24:21 9 wrong, Commissioner, you may have suggested it needs to be
10:24:25 10 included as well, which is that it simply goes now to line
10:24:28 11 29, but otherwise it's as we discussed it yesterday.
10:24:41 12
10:24:41 13 COMMISSIONER: Yes. Are you suggesting from line 29 it
10:24:44 14 goes out?
10:24:44 15
10:24:45 16 MR HOLT: Yes. So the yellow is proposed to go out,
10:24:48 17 Commissioner. I should say, Commissioner, as my learned
10:24:58 18 friend has just very properly reminded me of, if our
10:25:01 19 position in respect of the [REDACTED] matter alters this
10:25:05 20 then of course we'll come back and advise the Commission so
10:25:08 21 that as much can be made public as possible.
10:25:12 22
10:25:13 23 COMMISSIONER: Yes, we just have to do this. It's a wee
10:25:14 24 bit time consuming but it's worth it I think. So you're
10:25:18 25 content with that, Mr Winneke, at this stage?
10:25:22 26
10:25:23 27 MR WINNEKE: Commissioner, I am subject to the situation
10:25:25 28 being made clear. As we understand it Mr Holt is getting
10:25:30 29 advice and it may well be this will all change if the
10:25:34 30 advice is provided, in which case all of this comes into
10:25:37 31 the public domain.
10:25:38 32
10:25:39 33 COMMISSIONER: Yes, as Mr Holt foreshadowed yesterday.
34
35 MR WINNEKE: Yes.
36
10:25:41 37 COMMISSIONER: And at that time I'll rely on counsel to
10:25:44 38 bring that to my attention.
10:25:45 39
10:25:46 40 MR WINNEKE: Otherwise I accept that if these pieces of
10:25:51 41 transcript were in the public domain it would be possible
10:25:54 42 to identify these people.
10:25:55 43
10:25:56 44 COMMISSIONER: Is that so too going over to 1077?
10:26:01 45
10:26:02 46 MR WINNEKE: Yes, it's the same issue, Commissioner.
10:26:04 47

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10:26:04 1 COMMISSIONER: Yes, that will go out for the moment.
10:26:09 2
10:26:10 3 MR WINNEKE: Save that the Commission's position is that we
10:26:12 4 understand that, at least as far as I'm concerned,
10:26:18 5 Commissioner, that it's not accepted that there is public
10:26:21 6 interest immunity for reasons that we say make it
10:26:26 7 necessary, because it's necessary for these matters to be
10:26:29 8 in the public domain in any event, there might well be a
10:26:34 9 whole lot of reasons why, for example, what was known at
10:26:37 10 the time by various people. We don't want to have a long
10:26:41 11 debate about that at this stage.
10:26:42 12
10:26:43 13 COMMISSIONER: Exactly, and we do want to get the
10:26:45 14 transcript up on the website.
10:26:47 15
10:26:47 16 MR WINNEKE: Yes.
10:26:47 17
10:26:48 18 COMMISSIONER: Yes, all right. And while we're on this,
10:26:49 19 which raises Exhibit 81 here at 1077, Exhibit 81, in the
10:26:55 20 form I have it at the moment, and it's obviously going to
10:26:58 21 be a running list, is currently up to 24. Have you seen
10:27:02 22 this one?
10:27:02 23
24 MR HOLT: 24?
25
26 COMMISSIONER: Yes. You perhaps need to have a look.
27
10:27:04 28 MR HOLT: I'm sorry, Commissioner, you will have told from
10:27:08 29 my tone that the answer is no.
10:27:11 30
10:27:11 31 COMMISSIONER: You better have a look at this. It has the
10:27:15 32 handlers' names included.
10:27:16 33
10:27:16 34 MR HOLT: I think I understand, Commissioner, why it would
10:27:19 35 be that long now.
10:27:19 36
10:27:19 37 COMMISSIONER: Yes, but have a look at it and make sure
10:27:21 38 you're happy with that.
39
40 MR HOLT: Yes.
41
10:27:23 42 COMMISSIONER: 1080 is just changing informer to person.
10:27:27 43 Now 1082 there's a problem with the highlighted name at
10:27:31 44 line 13 and 14, is there?
10:27:34 45
10:27:34 46 MR HOLT: Commissioner, because of the way in which the
10:27:36 47 evidence was given and the risk that we submit manifested

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10:27:41 1 in terms of the capacity to identify who people were at
10:27:44 2 various, who the body of people were, that particular name
10:27:47 3 is one which we submit ought be redacted at least until we
10:27:50 4 know what the position is on Tuesday because it reduces the
10:27:53 5 risk of the likelihood of someone being able to identify
10:27:57 6 the body of people involved. That's the submission on that
10:28:00 7 basis, Commissioner. I acknowledge that it's a name that's
10:28:04 8 previously been used but an acute risk arose as a result of
9 the evidence that was given on this day, which is why we
10:28:08 10 spent some time on it. I acknowledge that that might shift
10:28:10 11 if the position changes. I should say, Commissioner, so
10:28:12 12 that it's clear and I've indicated it to our learned friend
10:28:15 13 this morning, that I hold instructions to indicate to the
10:28:18 14 Commission that the Victoria Police's position in respect
10:28:19 15 to that issue is expected to be settled by Tuesday.

10:28:23 16
10:28:24 17 COMMISSIONER: All right. Even though that person's name's
10:28:26 18 mentioned in the same line.

10:28:29 19
10:28:29 20 MR HOLT: I'm sorry, Commissioner, that's an error on my
10:28:33 21 part. It should be the same. So it would involve that
10:28:35 22 name as well.

10:28:39 23
10:28:40 24 COMMISSIONER: There'd be no problem knowing they'd met
10:28:43 25 with the - - -

10:28:44 26
10:28:45 27 MR HOLT: The difficulty, Commissioner, is it identifies
10:28:47 28 that person as [REDACTED] which then in turn reduces the
10:28:53 29 relevant people who the relevant informers could be, so
10:28:55 30 it's the same problem we've had the whole way through.
31 What we're attempting to do is just take an approach which
10:29:00 32 minimises risk at this point.

10:29:00 33
10:29:00 34 COMMISSIONER: Just for the sake of getting it on the
10:29:03 35 website are we - - -

10:29:04 36
10:29:04 37 MR WINNEKE: I think for the sake of getting it on the
10:29:07 38 website, if the position changes, well, and I would be
10:29:12 39 hopeful that the position would change such that all of
10:29:15 40 this material can go on to the website. If the position
10:29:18 41 doesn't change, well it may well be that we'll have to have
10:29:21 42 a more lengthy discussion about this. But in the interim
10:29:25 43 for the sake of getting this material on to the website in
10:29:30 44 my submission what Mr Holt suggests is reasonable until
10:29:34 45 Tuesday.

10:29:36 46
10:29:37 47 COMMISSIONER: Yes. Then we look at - all right. So

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10:29:40 1 [REDACTED] where it twice appears in line 13 - - -
10:29:51 2
10:29:51 3 MR HOLT: The bottom part on that page, Commissioner, is
10:29:54 4 the discussion we had yesterday which I'd understood
10:29:58 5 Mr Winneke at least was content with.
10:30:02 6
10:30:03 7 COMMISSIONER: We've gone through this so many times in the
10:30:07 8 course of public hearings.
10:30:09 9
10:30:09 10 MR HOLT: Commissioner, as I say, at the risk of sounding
10:30:13 11 like a broken record it's the jigsaw puzzle which was put
10:30:17 12 together during this evidence which is really problematic.
10:30:33 13 Then the final one, Commissioner, is at 1085.
10:30:38 14
10:30:38 15 COMMISSIONER: I'd be very unhappy if this stays out. I'll
10:30:41 16 let it stay out until Tuesday. I'll be very unhappy if
10:30:45 17 that stays out permanently.
10:30:48 18
10:30:48 19 MR HOLT: The 1085 reference, Commissioner?
10:30:51 20
10:30:52 21 COMMISSIONER: 1082 at the bottom of the page. It's just
10:30:54 22 that narrative is already well in the public domain. So
10:31:02 23 1085.
10:31:11 24
10:31:12 25 MR HOLT: I should indicate, Commissioner, in relation to
10:31:13 26 1085 I'm instructed that nowhere else either in the public
10:31:17 27 domain or in respect of this matter or anywhere else has
10:31:21 28 that information otherwise become known, which increases
10:31:32 29 the number of people who might have an interest in the
10:31:32 30 person whose identity we are presently still trying to
10:31:34 31 protect.
10:31:34 32
10:31:35 33 COMMISSIONER: At line 23 [REDACTED] should be [REDACTED]
10:31:39 34
10:31:39 35 MR HOLT: Yes it should, Commissioner. I should say there
10:31:40 36 was an overall acceptance of that so I haven't - I stopped
10:31:44 37 identifying them on that basis.
10:31:46 38
10:31:46 39 COMMISSIONER: Yes. Some care better be taken because just
10:31:46 40 by changing every time [REDACTED] might not - - -
10:31:55 41
10:31:55 42 MR HOLT: I think the indication yesterday was that that
10:31:58 43 was going to be done by the transcribers, otherwise of
10:32:01 44 course we are content - - -
10:32:01 45
10:32:01 46 COMMISSIONER: Yes, I know but the word informer might have
10:32:05 47 been used in a different context other than [REDACTED] or

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10:32:08 1 [REDACTED]
10:32:08 2
10:32:09 3 MR HOLT: Yes, we've identified a couple of those in the
10:32:10 4 correspondence with the Commission this morning which we
10:32:11 5 think fall in one or other of those categories. So I'll
6 ensure that that's - - -
7
8 COMMISSIONER: And shouldn't be - - -
9
10:32:14 10 MR HOLT: Both ways in fact, Commissioner. One which might
10:32:16 11 be thought it should and one we thought it shouldn't.
10:32:20 12
10:32:20 13 COMMISSIONER: All right. Could somebody in the Commission
10:32:22 14 legal team when these changes are done be dedicated to the
10:32:28 15 task of checking the transcript and making sure that the
10:32:30 16 word informer has not been wrongly been changed in context.
10:32:35 17
10:32:35 18 MR WINNEKE: It will have to be done, Commissioner.
19
10:32:37 20 COMMISSIONER: Yes, thank you.
10:32:37 21
10:32:37 22 MR HOLT: We'll do that as well, Commissioner.
23
24 COMMISSIONER: Thank you.
25
10:32:38 26 MR HOLT: That is all of the matters in the open
10:32:41 27 transcript.
10:32:41 28
10:32:42 29 COMMISSIONER: Are you content with the 1085 changes? I
30 would have just thought if we just changed it to [REDACTED],
10:32:46 31 the fact they were [REDACTED] there was no objection at
10:32:48 32 the time when this evidence came out.
10:32:50 33
10:32:51 34 MR WINNEKE: Commissioner, I would have thought [REDACTED]
10:32:53 35 would be sufficient.
10:32:57 36
10:32:58 37 MR HOLT: Commissioner, it's the fact that it identifies
10:33:01 38 people who would have a pejorative interest in these
10:33:03 39 informers who would now be able to understand that the
10:33:07 40 information be given in respect of them.
10:33:08 41
10:33:09 42 COMMISSIONER: Yes. It's an important part of the
10:33:11 43 narrative to know that Ms Gobbo went to [REDACTED] with a
10:33:17 44 client with police from Victoria.
10:33:21 45
10:33:22 46 MR HOLT: But there's no need, Commissioner, in our
10:33:23 47 respectful submission for it to be made - the Commission

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10:33:26 1 will still know, for it to be made public the detail of the
10:33:29 2 nature of the people who were there and what they were
10:33:32 3 involved in in terms of the balance of public interest,
10:33:36 4 given that it does create in our respectful submission a
10:33:37 5 genuine increase and risk to the persons who are at risk
10:33:43 6 just by virtue of their status.
10:33:45 7

10:33:45 8 COMMISSIONER: I'm not inclined to agree with you on that
10:33:48 9 one. I think it's an important part of the narrative in
10:33:57 10 developing the public knowledge of the extent of Ms Gobbo's
10:34:01 11 relationship with Victoria Police that at this time in the
10:34:06 12 relationship she was travelling to [REDACTED] with a client
10:34:12 13 with Victoria Police.

10:34:15 14
10:34:16 15 MR HOLT: Commissioner, would the Commissioner be prepared
10:34:19 16 to consider removal for these purposes of the words - - -

10:34:25 17
10:34:25 18 MR WINNEKE: Commissioner, sorry, can I just interrupt. As
10:34:27 19 I understand it this discussion is being streamed. It
10:34:30 20 oughtn't be.

10:34:35 21
10:34:35 22 COMMISSIONER: All right. It was a 15 minute delay so I'll
10:34:38 23 direct that this discussion be held in private and under
10:34:45 24 s.24 of the *Inquiries Act*, under the *Inquiries Act* and this
10:34:56 25 order be placed on the door of the hearing room.

10:35:00 26
10:35:01 27 MR WINNEKE: Thanks Commissioner.

10:35:08 28
10:35:16 29 COMMISSIONER: So from 10.20 private hearing.

10:35:20 30
10:35:20 31 MR WINNEKE: Yes. Commissioner, I'm not too sure whether
10:35:23 32 your microphone is on. I know my hearing's not
10:35:26 33 particularly good but I can't - I'm having difficulty
10:35:28 34 hearing.

10:35:28 35
10:35:29 36 COMMISSIONER: Having difficulty hearing me.

10:35:32 37
10:35:33 38 MR WINNEKE: Yes.

10:35:32 39
10:35:32 40 COMMISSIONER: Is this one any better? Neither of them are
10:35:33 41 working. All right, I'll speak in my louder voice.

10:35:33 42
10:35:37 43 MR WINNEKE: Thank you, Commissioner.

10:35:37 44
10:35:37 45 COMMISSIONER: So, were you going to say something,
10:35:39 46 Mr Winneke, about 1085. I'm inclined to say that it should
10:35:45 47 just be [REDACTED]

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10:35:47 1
10:35:47 2 MR WINNEKE: As I indicated before, Commissioner, in my
10:35:51 3 submission it would be sufficient if it was changed to
10:35:59 4 ██████████ I hear what our learned friends say but in our
10:36:06 5 submission it's reasonable and I don't think, from what has
10:36:12 6 been said by Mr Holt, it could be said that that would
10:36:16 7 unduly put persons at risk.
10:36:19 8
10:36:19 9 COMMISSIONER: I mean it says at the question above - the
10:36:22 10 answer is, "Arrangements were made to attend the Crime
10:36:25 11 Commission in ██████████" and then line 20, "The suppliers of
10:36:29 12 the ██████████ to ██████████ were ██████████ based". It's pretty
10:36:34 13 obvious if we took out - - -
10:36:38 14
10:36:39 15 MR HOLT: Commissioner, can I indicate, if I can assist,
10:36:41 16 it's the combination of suppliers of ██████████ and ██████████
10:36:45 17 based which presumably narrows us down to a small amount of
10:36:50 18 people who were engaged at this time in this sort of thing
10:36:53 19 involving these issues. If it was, for example - I'm
10:36:54 20 trying to think of a way through it. If it was, for
10:36:57 21 example, "The alleged offenders were ██████████ based" or
10:37:01 22 something of that kind. It's the supply of ██████████
10:37:03 23 specifically and the ██████████ based which limits it down to a
10:37:05 24 very small number of people. And I'm instructed,
10:37:08 25 Commissioner, that it increases the number of people with
10:37:10 26 the potential to have an interest in the safety of the
10:37:14 27 persons who we are trying to protect.
10:37:19 28
10:37:19 29 COMMISSIONER: Did you want to say something, Mr Winneke?
10:37:22 30
10:37:22 31 MR WINNEKE: Commissioner, I don't know whether that
10:37:24 32 narrows - our learned friend asserts that's the case but
10:37:27 33 one assumes the suppliers will come from a city. And it so
10:37:32 34 happens that Ms Gobbo was going to Sydney and the evidence
10:37:39 35 was that the suppliers of the ██████████ to the person were
10:37:42 36 ██████████ based. I don't see how that narrows it down to a
10:37:48 37 particularly small group.
10:37:50 38
10:37:50 39 COMMISSIONER: No. I'm against you on that one. I think
10:37:54 40 we'll just change it to ██████████
10:37:56 41
10:37:56 42 MR HOLT: Thank you Commissioner.
10:37:57 43
10:37:57 44 COMMISSIONER: Then you have ██████████ name mentioned at line
10:38:01 45 28 so that'll change to - - -
10:38:01 46
10:38:02 47 MR HOLT: That's been underlined for that purpose.

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10:38:04 1
10:38:04 2 MR WINNEKE: Accept that.
10:38:05 3
10:38:05 4 COMMISSIONER: That will be changed to the person. That's
10:38:07 5 the other one. That's Tuesday 30th. What about
10:38:13 6 yesterday's transcript? Have we got that one?
10:38:14 7
10:38:14 8 MR HOLT: We have provided a very small number of comments
10:38:16 9 on that this morning, Commissioner.
10:38:17 10
10:38:18 11 COMMISSIONER: We better deal with those too now. I think
10:38:21 12 it might save time in the long run if we do that. I think
10:38:26 13 I have got those sent to me. Maybe not. What I thought I
10:38:44 14 had, what I thought was yesterday's was in fact the day's
10:38:49 15 before sent to me. Do we have a copy of yesterday's
10:38:53 16 transcript?
10:38:55 17
10:38:55 18 MR HOLT: We do and we've reviewed it, Commissioner. There
10:38:58 19 are only two matters we have communicated to the
10:39:01 20 Commission. I hope they're uncontroversial.
10:39:05 21
10:39:05 22 COMMISSIONER: Right. The transcript you've given me does
10:39:08 23 both days, does it?
10:39:09 24
10:39:09 25 MR HOLT: No, Commissioner, that was only the first day. I
10:39:16 26 have one hard copy, Commissioner, but I have notes of the
10:39:19 27 pages I can take the Commissioner to but I won't be able to
10:39:22 28 refer to that.
10:39:22 29
10:39:23 30 COMMISSIONER: Thanks very much, and I can jog your memory
10:39:27 31 about them. Do you know which page the first ones were on?
10:39:43 32
10:39:43 33 MR HOLT: Yes. The first three are all the same, they're
10:39:46 34 just [REDACTED] which is the same issue, Commissioner,
10:39:49 35 from the previous day. So there's a reference to that name
10:39:51 36 at 1205, 1217 and 1218. We simply ask again just until
10:40:02 37 that issue is resolved on the same basis that the
10:40:06 38 Commissioner made that order earlier.
10:40:15 39
10:40:16 40 COMMISSIONER: 1205 did you say?
10:40:18 41
10:40:18 42 MR HOLT: Yes.
10:40:22 43
10:40:22 44 MR WINNEKE: That's a transcript where it says, "There were
10:40:24 45 a series of arrests made on 18 November and they included a
10:40:28 46 person who we are referring to by the name of [REDACTED] in
10:40:30 47 the Commission, someone named [REDACTED], another one named

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10:40:36 1 [REDACTED] and another one named [REDACTED].
10:40:40 2 As I understand it what my learned friends are saying is
10:40:42 3 that the mention of that name - - -
10:40:44 4
10:40:44 5 MR HOLT: In that context. It's the same argument we have
10:40:47 6 just made until next week.
10:40:50 7
10:40:51 8 MR WINNEKE: Yes, I follow that.
10:40:52 9
10:40:52 10 COMMISSIONER: All right, are we content with that?
10:40:55 11
10:40:55 12 MR WINNEKE: Subject to the same comments that I've made.
10:40:57 13
10:40:57 14 COMMISSIONER: Absolutely.
10:40:58 15
10:40:59 16 MR HOLT: The remaining two are again at 1220 to 1221.
10:41:04 17 There are references to the name of a witness who Your
10:41:08 18 Honour suppressed yesterday on an interim basis, the issue
10:41:13 19 in respect of whom there are medical issues being resolved,
10:41:17 20 A1st PO So they simply need to come out before
10:41:21 21 it's published in accordance with the Commissioner's order.
10:41:24 22
10:41:24 23 COMMISSIONER: Yes.
10:41:25 24
10:41:25 25 MR HOLT: Then at 1251 and following were the in camera
10:41:30 26 proceedings about procedural matters relating to [REDACTED]
10:41:32 27 and the like. We assume they won't be published but I
10:41:36 28 ought raise that directly.
10:41:38 29
10:41:39 30 COMMISSIONER: 1251.
10:41:41 31
10:41:43 32 MR HOLT: To 1279, Commissioner. It was the in camera
10:41:46 33 proceedings at the end of the day discussing these kinds of
10:41:50 34 issues.
10:41:58 35
10:41:58 36 MR WINNEKE: Yes, that's correct.
10:41:59 37
10:42:00 38 MR HOLT: Those are the only issues, Commissioner. There
10:42:04 39 are none of a more substantive kind.
10:42:12 40
10:42:12 41 COMMISSIONER: So where are you suggesting it stops? Just
10:42:22 42 after "this isn't being streamed now, not being streamed
10:42:27 43 thank you", from line 18.
10:42:28 44
10:42:29 45 MR HOLT: Thank you Commissioner.
10:42:30 46
10:42:30 47 COMMISSIONER: Everything after line 18 until the end of

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10:42:33 1 the day?
10:42:35 2
10:42:36 3 MR HOLT: Sorry, Commissioner, you have me at a
10:42:40 4 disadvantage because I've given you mine.
10:42:42 5
10:42:42 6 COMMISSIONER: I understand.
7
10:42:42 8 MR HOLT: I'm trying to pick it up.
10:42:42 9
10:42:42 10 MR WINNEKE: I think that's correct, Commissioner.
10:42:45 11
10:42:46 12 MR HOLT: Until the end of the day, yes. It is in fact
10:42:50 13 1270. I said 1279 but it was a typographical error.
10:42:55 14
10:42:55 15 MR WINNEKE: 1270.
10:43:00 16
10:43:00 17 COMMISSIONER: I just want to be sure about that. Is there
10:43:02 18 any problem with the business about the disclosure to, the
10:43:07 19 discussion with Ms O'Gorman being in public?
10:43:15 20
10:43:16 21 MR WINNEKE: Where is the reference to that, Commissioner,
10:43:18 22 what page?
10:43:19 23
10:43:19 24 COMMISSIONER: That's a lot of the discussion from 1264 on.
10:43:27 25 It starts even earlier than that about [REDACTED] and the
10:43:33 26 disclosure concerning [REDACTED] I'm not sure that
10:43:38 27 shouldn't be in public.
10:43:39 28
10:43:40 29 MR WINNEKE: Commissioner, was there an order made about
10:43:43 30 that part of the hearing? It certainly was in camera.
10:43:53 31 Commissioner, I wonder if I could perhaps have a read of
10:43:56 32 that as the next witness proceeds. Can we just put that on
10:44:02 33 hold for the moment?
34
10:44:30 35 COMMISSIONER: Yes. There are parts here that I would
10:44:31 36 expect should be in public like - - -
10:44:44 37
10:44:45 38 MR HOLT: Commissioner, can I apologise, I had made the
10:44:47 39 assumption that that discussion about those kinds of issues
10:44:50 40 simply wouldn't be published so I haven't reviewed those
10:44:55 41 with the level of detail that I would need to do to assist
10:44:58 42 the Commissioner.
10:44:59 43
10:44:59 44 COMMISSIONER: Yes. We'll leave it then up until
10:45:01 45 transcript 1251 line 18 as the agreed corrections. That
10:45:05 46 can now be published on the website, together with
10:45:10 47 Tuesday's hearing. And from 1251 line 19 to the end of the

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10:45:19 1 proceedings we'll discuss that further.
2
3 MR HOLT: Thank you.
4
10:45:22 5 COMMISSIONER: Further, the transcript from 30 April of the
10:45:29 6 public hearings as amended, or as to be amended, that can
10:45:35 7 also be published on the website now. There was another
10:45:42 8 document too that we needed to, you needed some time to
10:45:46 9 discuss. Do you want me to give you back your transcript?
10:45:49 10
10:45:49 11 MR HOLT: I would be very grateful, Commissioner.
12
13 COMMISSIONER: Certainly.
14
10:45:51 15 MR HOLT: I think that was the Pope documents,
10:45:54 16 Commissioner, that were under the cover of the letter of
10:45:58 17 Mr Marquet and I am in a position to assist the
10:45:59 18 Commissioner with those, either now or later in the day
10:46:01 19 whenever is convenient.
10:46:01 20
10:46:01 21 COMMISSIONER: Thank you, we might as well do it now I
10:46:04 22 think while we're in private hearing.
10:46:08 23
10:46:10 24 MR HOLT: Yes. Commissioner, I'm referring to a document
10:46:13 25 which is the investigation log VPL.0005.0007.0189.
26
27 COMMISSIONER: Yes.
28
10:46:20 29 MR HOLT: Which has the red, does the Commissioner's
10:46:24 30 version have the red markings and the black markings?
10:46:27 31
10:46:27 32 COMMISSIONER: Only black.
10:46:30 33
10:46:30 34 MR HOLT: Can I note this, at the 20 May 1999 entry, if I
10:46:36 35 can deal with it on that basis, there are the two names
10:46:39 36 there and the name of the next entry which would plainly be
10:46:43 37 [REDACTED] I'm sorry, Commissioner.
10:46:45 38
10:46:45 39 COMMISSIONER: I'm not sure I have the right document here.
10:46:47 40 This is the - - -
10:46:48 41
10:46:49 42 MR HOLT: Investigation log where the VPL number ends 189.
10:47:06 43
10:47:06 44 COMMISSIONER: I've got that document now.
10:47:07 45
10:47:07 46 MR HOLT: Thank you Commissioner. So the entry that the
10:47:10 47 Commissioner took me to first yesterday was 20 May - - -

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10:47:12 1
10:47:13 2 COMMISSIONER: This one does have the red as well as the
10:47:16 3 black.
10:47:16 4
10:47:16 5 MR HOLT: Thank you, then I'll work on the theory we are
10:47:20 6 looking at the same document which I think will make things
7 more efficient.
8
9 COMMISSIONER: Yes.
10
10:47:22 11 MR HOLT: Those two entries, those names should plainly now
10:47:24 12 be [REDACTED] That's obviously changed since
10:47:28 13 these claims were made.
10:47:28 14
10:47:29 15 COMMISSIONER: Yes. And the next one, that's agreed.
16
17 MR HOLT: Yes.
18
10:47:31 19 COMMISSIONER: Then it was just this [REDACTED]
10:47:35 20
10:47:35 21 MR HOLT: Yes. So [REDACTED] Commissioner, we maintain a
10:47:39 22 claim of public interest immunity in respect of that on the
10:47:41 23 basis that it does tend to reveal a police methodology. I
10:47:46 24 have considered overnight whether there was a way in which
10:47:48 25 those words could be altered in some way to change that.
10:47:52 26 Such that it doesn't, for example, by a reference to [REDACTED]
10:47:56 27 or similar, but that wouldn't seem to effect the result
10:47:59 28 which we respectfully seek. I can't advance submissions
10:48:04 29 beyond that, Commissioner, but it would in our submission
10:48:04 30 make clear that that is something which is done in respect
10:48:09 31 of those kinds of operatives and that it not something
32 which would ordinarily be revealed nor in our respectful
10:48:13 33 submission should be, acknowledging immediately the
10:48:16 34 Commissioner's commitment to an open hearing. It is not a
10:48:18 35 fact of any particular moment in our respectful submission.
10:48:23 36
10:48:23 37 COMMISSIONER: In that case I'm inclined to leave it in.
10:48:26 38
10:48:27 39 MR HOLT: Thank you Commissioner. In terms of the entry on
10:48:29 40 27 May 1999, can I indicate that we do not maintain, and
10:48:34 41 this is in part because of the way in which evidence has
42 developed since the point at which these claims were made,
10:48:39 43 we do not maintain the claims in relation to references to
10:48:43 44 the block or the block of land or that block or the
10:48:46 45 original title or the block of land. We do maintain a
10:48:51 46 respectful request that this remain redacted in respect of
10:48:55 47 the value of the debt that's seen in about the seventh line

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10:48:59 1 down.
2
3 COMMISSIONER: Yes.
4
10:48:59 5 MR HOLT: And also the reference to [REDACTED]
10:49:02 6 [REDACTED] which is about halfway through. Again, as it is
10:49:06 7 generally the case this is designed to remove specifics
10:49:12 8 which would allow a person who wanted to find out what this
10:49:15 9 was about to find it out without destroying the narrative.
10:49:19 10
10:49:20 11 COMMISSIONER: Sure. We would take out [REDACTED] and we
10:49:23 12 take out [REDACTED]
10:49:26 13
10:49:26 14 MR HOLT: Yes, Commissioner.
10:49:29 15
10:49:29 16 COMMISSIONER: And the rest of it is okay.
10:49:31 17
10:49:33 18 MR HOLT: The rest of it's okay in that paragraph.
10:49:33 19
10:49:33 20 COMMISSIONER: Mr Winneke, I'm assuming that if you have
10:49:35 21 any difficulty with any of this you'll say so?
10:49:39 22
10:49:40 23 MR WINNEKE: Commissioner, I would - Your Honour has made a
10:49:45 24 ruling in relation to the [REDACTED] I take it.
10:49:49 25
10:49:49 26 COMMISSIONER: Yes, I said that stays in.
10:49:51 27
10:49:51 28 MR WINNEKE: That stays in, yes, thanks. In relation to
10:49:55 29 the [REDACTED] and [REDACTED] my submission
10:50:00 30 would be that that is not, that's not a matter which ought
10:50:03 31 be redacted. It effectively, the fact that it's a [REDACTED]
10:50:09 32 debt isn't going to in our submission enable the
10:50:13 33 identification of any person, and likewise - - -
10:50:18 34
10:50:18 35 COMMISSIONER: Would it be on the transfer documents on the
10:50:22 36 public record? That's the only thing I was assuming.
10:50:25 37
10:50:25 38 MR HOLT: I doubt it. I doubt the amount is, Commissioner.
10:50:27 39 I'm sorry, I can't be precise about that, but I doubt the
10:50:32 40 amount is.
41
42 COMMISSIONER: Thanks Mr Holt.
43
10:50:32 44 MR HOLT: The point is not the public being able to
10:50:36 45 identify it, it is about the very people that might have
46 been addressed in the transaction and what was done by the
10:50:41 47 people who are dealing with this transaction being able to

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10:50:43 1 identify.
10:50:45 2
3 COMMISSIONER: So there are people who might know there's a
10:50:46 4 [REDACTED] drug debt?
10:50:46 5
10:50:46 6 MR HOLT: Exactly so. And where something occurred and put
10:50:47 7 two and two together. That is our concern, Commissioner.
10:50:50 8
10:50:50 9 COMMISSIONER: But even if we leave it as a debt they
10:50:53 10 probably would do that anyway.
10:50:56 11
10:50:57 12 MR HOLT: It's possible, Commissioner. All of this is
10:50:57 13 crystal ball gazing but the stakes, as the Commissioner
10:51:07 14 will appreciate, are high.
10:51:14 15
10:51:15 16 MR WINNEKE: The amount of money, a [REDACTED] debt, it may
10:51:20 17 well be appropriate to remove that. The [REDACTED] could be
10:51:25 18 removed.
10:51:30 19
10:51:32 20 COMMISSIONER: It doesn't really change the narrative
10:51:35 21 whether it was in Peter Reid's office, does it? I must say
10:51:38 22 I don't think that it's - - -
10:51:42 23
10:51:42 24 MR WINNEKE: No, it doesn't Commissioner but I think my
10:51:46 25 learned friend, unless I misheard him wanted the word debt
10:51:49 26 out. I would have thought that should remain.
10:51:50 27
10:51:50 28 COMMISSIONER: No, it was just [REDACTED] just the amount.
10:51:54 29
10:51:55 30 MR WINNEKE: [REDACTED] In [REDACTED] It probably
10:51:55 31 doesn't change it.
10:51:56 32
10:51:57 33 COMMISSIONER: We'll leave that then, thank you.
10:51:59 34 Mr Winneke, unless I hear from you I will assume that
10:52:04 35 you're agreeing with my ruling.
36
37 MR WINNEKE: Yes.
38
10:52:05 39 COMMISSIONER: I think that will be the quickest way. But
10:52:05 40 if you don't, stand up and say so.
10:52:07 41
10:52:07 42 MR WINNEKE: I'll let you know.
10:52:09 43
10:52:09 44 COMMISSIONER: Yes, thank you. So [REDACTED] should
10:52:11 45 probably go out.
10:52:12 46
10:52:13 47 MR HOLT: That's our submission, Commissioner.

.02/05/19

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1
2 COMMISSIONER: So that would go out.
3
10:52:16 4 MR HOLT: And there are no other claims maintained in
10:52:18 5 relation to that document.
10:52:19 6
10:52:19 7 COMMISSIONER: You're not worrying about the other blocks
10:52:21 8 of land.
10:52:22 9
10:52:22 10 MR HOLT: I'm sorry, Commissioner, can I just ask, it is
10:52:23 11 only something that I noticed this morning, I apologise, on
10:52:25 12 23 June 1999, which is the very last entry, the second part
10:52:29 13 of that appears like it would breach another order which
10:52:34 14 the Commission has made which I don't think has been picked
10:52:38 15 up in this review.
10:52:39 16
10:52:40 17 COMMISSIONER: You'll have to be more specific.
10:52:42 18
10:52:43 19 MR HOLT: ██████████ mentioned, Commissioner.
20
21 COMMISSIONER: I'm sorry?
22
23 MR HOLT: ██████████ is mentioned.
24
25 COMMISSIONER: Whereabouts, what line?
26
10:52:47 27 MR HOLT: 23 June 1999, the last part of that, (indistinct)
10:52:50 28 work address of.
10:53:00 29
10:53:00 30 COMMISSIONER: It's got ██████████ in mine.
10:53:02 31
10:53:03 32 MR HOLT: Then that's been done, Commissioner.
10:53:05 33
10:53:05 34 COMMISSIONER: That's already been done, ██████████
10:53:08 35
10:53:09 36 MR HOLT: Yes. The next document, Commissioner, is
10:53:15 37 VPL.0005.0007.0200.
10:53:19 38
10:53:20 39 COMMISSIONER: I've got that and again it has the red
10:53:22 40 markings.
10:53:22 41
10:53:23 42 MR HOLT: Thank you, I'm grateful. If I can take the
10:53:25 43 Commissioner perhaps only to the claims that we maintain if
10:53:28 44 that's easier.
45
46 COMMISSIONER: Yes.
47

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10:53:29 1 MR HOLT: It's second from the bottom paragraph. Again
10:53:31 2 simply ask that [REDACTED] be replaced with "interstate" and
10:53:35 3 that the [REDACTED] go and the same in the next sentence,
10:53:40 4 that the word [REDACTED] and just the value [REDACTED].
10:53:44 5
10:53:44 6 COMMISSIONER: Square brackets "interstate" replaces [REDACTED]
10:53:48 7 [REDACTED]
8
9 MR HOLT: Yes.
10
10:53:48 11 COMMISSIONER: And just blank, or the dollar sign and then
10:53:55 12 blank.
10:53:55 13
10:53:56 14 MR HOLT: Yes, Commissioner. And then on the next page
10:54:00 15 there is only one claim maintained and that is again the
10:54:04 16 reference to [REDACTED] in the second
10:54:06 17 paragraph.
10:54:07 18
10:54:08 19 COMMISSIONER: So again the [REDACTED] will go to the dollar
10:54:11 20 mark.
10:54:11 21
10:54:12 22 MR HOLT: Yes Commissioner.
10:54:12 23
10:54:12 24 COMMISSIONER: You're not worrying about [REDACTED]
10:54:14 25 businessman"?
10:54:15 26
10:54:15 27 MR HOLT: No, just the word [REDACTED]. I'm sorry, I had
10:54:16 28 indicated in both of those paragraphs, I apologise, yes.
10:54:19 29 Just the word [REDACTED] to be replaced with "interstate".
10:54:22 30
10:54:23 31 COMMISSIONER: "Interstate" square brackets.
10:54:25 32
10:54:26 33 MR HOLT: And then on the second page in the second
10:54:28 34 paragraph, again there's a reference to [REDACTED]
10:54:32 35 [REDACTED] and the last three or four words in our position
10:54:35 36 are the same and we expect the Commissioner's - - -
10:54:36 37
10:54:36 38 COMMISSIONER: You're just going a little quickly for me.
10:54:40 39 I'm on the next page, now where are we?
10:54:40 40
10:54:41 41 MR HOLT: Second paragraph from the top, Commissioner.
42
43 COMMISSIONER: Yes.
44
10:54:42 45 MR HOLT: The last four words [REDACTED]
10:54:48 46 just for the same reasons we indicated in respect of the
10:54:52 47 earlier.

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10:54:52 1
10:54:53 2 COMMISSIONER: It would just be "in blank office".
10:54:55 3
10:54:56 4 MR HOLT: Exactly so Commissioner. And no other claims in
10:54:59 5 relation to those documents are maintained in light of the
10:55:02 6 evidence that's come out since.
10:55:03 7
10:55:04 8 COMMISSIONER: Does that mean now we've covered everything
10:55:07 9 that - - -
10:55:07 10
10:55:07 11 MR HOLT: We have.
10:55:09 12
10:55:09 13 COMMISSIONER: - - - Victoria Police is wanting redactions
10:55:11 14 in respect of?
10:55:12 15
10:55:13 16 MR HOLT: Where there was an extant non-agreement in
10:55:16 17 effect, yes, as I understand it, Commissioner.
18
19 COMMISSIONER: Right.
20
10:55:17 21 MR HOLT: But of course if there are others we'll address
10:55:20 22 those.
23
24 COMMISSIONER: Yes.
25
10:55:21 26 MR HOLT: I apologise I wasn't in a position to address
10:55:24 27 those in detail yesterday.
10:55:25 28
10:55:26 29 COMMISSIONER: No, that is okay. In that case what will
10:55:28 30 happen is the exhibits concerning Mr Pope, I don't have the
10:55:36 31 numbers immediately to hand, but they will now be marked -
10:55:41 32 Exhibit A will be the unchanged document and that will be,
10:55:48 33 exhibit whatever number it is, bracket A will be the
10:55:52 34 original document as tendered and then B, and that will be
10:55:57 35 placed in a sealed envelope stating "only to be opened by
10:56:05 36 order of the Commissioner", and B will be the further
10:56:09 37 redacted document which will be published on the website.
10:56:14 38
10:56:14 39 MR HOLT: Thank you Commissioner. In terms of the
10:56:17 40 preparation of the redactions in light of the rulings the
10:56:19 41 Commissioner has just made, would it assist the Commission
10:56:21 42 if we prepared that document?
10:56:24 43
10:56:24 44 COMMISSIONER: I think it would be better if the Commission
10:56:26 45 did it.
10:56:26 46
10:56:27 47 MR HOLT: We have no preference either way.

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10:56:30 1
2 COMMISSIONER: No, it's very kind of you to offer but,
10:56:30 3 Mr Winneke, it would be better if the Commission did it,
10:56:34 4 wouldn't it? The document is available electronically.
10:56:37 5
10:56:38 6 MR WINNEKE: It can be done by the Commission without too
10:56:40 7 much difficulty.
10:56:41 8
10:56:41 9 COMMISSIONER: I think it's preferable that the Commission
10:56:43 10 is in control of this.
10:56:45 11
10:56:46 12 MR WINNEKE: I agree with that.
10:56:48 13
10:56:49 14 MR HOLT: And if we could just check that very briefly.
10:56:51 15
10:56:51 16 COMMISSIONER: Sure. The Commission will do that and it
10:56:54 17 will show it to your before placing it on the website. In
10:56:58 18 relation to the transcript, the redacted pages of the
10:57:01 19 public transcript will be published as given and will be
10:57:08 20 placed in a sealed envelope marked, "Only to be opened by
10:57:13 21 order of the Commissioner".
10:57:14 22
10:57:15 23 MR HOLT: Thank you Commissioner.
10:57:16 24
10:57:16 25 COMMISSIONER: So that we will have a complete record of
10:57:18 26 what was actually said as well as the redacted transcript.
10:57:21 27
10:57:21 28 MR HOLT: Again, Commissioner, I'll be clear, our position
10:57:23 29 is not that those matters that have been redacted are
10:57:27 30 matters that the Commission itself cannot consider.
10:57:30 31
32 COMMISSIONER: Of course, yes.
33
34 MR HOLT: They are matters put before the Commission - - -
35
10:57:31 36 COMMISSIONER: And indeed there may be changes next week.
10:57:34 37
10:57:34 38 MR HOLT: Of course.
10:57:35 39
10:57:35 40 MR WINNEKE: Commissioner, just on the practicalities of
10:57:38 41 it, it may well be that it's an appropriate thing to have
10:57:42 42 them in sealed envelopes with orders that they only be
10:57:45 43 looked at by your order. Perhaps a more, another way of
10:57:50 44 doing it would simply be that these be confidential
10:57:54 45 exhibits not to be published. In any event perhaps we can
10:58:00 46 think about that, but that would seem to be a more
10:58:02 47 practical way of going about it rather than the necessity

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10:58:05 1 of having the Commissioner make a specific order about
10:58:09 2 opening a sealed envelope on any occasion, for example if
10:58:14 3 Commission staff need to look at exhibits. I simply raise
10:58:17 4 that as a matter of practicality.
10:58:19 5
10:58:19 6 COMMISSIONER: What do you say, Mr Holt?
10:58:21 7
10:58:22 8 MR HOLT: Commissioner, we have no difficulty either way.
10:58:24 9 We trust the Commission's processes to ensure they are kept
10:58:28 10 confidential.
10:58:28 11
10:58:29 12 COMMISSIONER: All right. I'll vacate that order and
10:58:33 13 instead the transcript of what was actually said will be
10:58:41 14 placed in an envelope to be marked confidential.
10:58:46 15
10:58:46 16 MR WINNEKE: Confidential exhibit.
10:58:47 17
10:58:47 18 COMMISSIONER: Confidential exhibit, restricted access.
10:58:50 19
10:58:50 20 MR WINNEKE: Something along those lines.
10:58:52 21
10:58:56 22 COMMISSIONER: Yes. If it's an exhibit it will be marked
10:58:58 23 confidential exhibit, if it's transcript it will be marked
10:59:01 24 restricted access transcript.
10:59:05 25
10:59:06 26 MR WINNEKE: If it please the Commissioner.
10:59:07 27
10:59:07 28 COMMISSIONER: Nothing else we need to deal with in closed
10:59:11 29 hearing?
10:59:11 30
10:59:12 31 MR HOLT: Have I sufficiently indicated to the Commission
10:59:15 32 in the course of that exchange Victoria Police's timing in
10:59:17 33 relation to the decision about [REDACTED]? We expect to
10:59:21 34 have a decision made on Tuesday communicated to the
10:59:24 35 Commission and to the Director of Public Prosecutions as
10:59:25 36 soon as it's made.
10:59:29 37
10:59:29 38 COMMISSIONER: Right. We still need to deal with the rest
10:59:31 39 of yesterday's transcript from page whatever it was
10:59:36 40 onwards. You wanted an opportunity to look at that about
10:59:38 41 the [REDACTED] things, so we'll deal with that later today.
10:59:43 42
10:59:43 43 MR WINNEKE: We'll deal with that later. Just before we go
10:59:46 44 public, Commissioner, the next witness, Mr Bartlett, has
10:59:51 45 had interactions with a number of people who it seems can't
10:59:58 46 be named, one of whom was a client, at least a couple of
11:00:03 47 whom were clients of Nicola Gobbo but one in particular

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11:00:06 1 seems to figure quite significantly throughout the course
11:00:10 2 of, and will figure throughout the course of proceedings
11:00:17 3 and indeed is named in the decision of Justice Ginnane.
11:00:22 4
11:00:23 5 COMMISSIONER: Yes. We are still in closed hearing so we
11:00:25 6 can it's [REDACTED] we're talking about. I see, right.
11:00:28 7
11:00:28 8 MR WINNEKE: It seems that back in - - -
11:00:29 9
11:00:29 10 COMMISSIONER: Take that from the record, please.
11:00:32 11
11:00:32 12 MR WINNEKE: It seems that back in 2007 there was an order
11:00:35 13 made by Justice Hargreaves in relation to that person and a
11:00:41 14 number of other people. Now an awful lot of water has
11:00:46 15 flown under the bridge since then and indeed there are now
11:00:50 16 matters in the public which would make it reasonably plain
11:00:53 17 to anyone with an interest who that person is.
11:00:57 18
11:00:58 19 COMMISSIONER: We all know.
11:00:59 20
11:00:59 21 MR WINNEKE: Nonetheless it does appear to be the case that
11:01:03 22 at present there still is an order extant albeit it is a
11:01:06 23 very old order. My learned junior Ms Tittensor has spoken
11:01:13 24 to the Judicial Registrar I think of the Supreme Court and
11:01:17 25 various people. We're trying to get to the bottom of that.
11:01:21 26 It's not easy to find out what orders, suppression orders
11:01:25 27 are still in existence and which orders have expired
11:01:30 28 through the effluxion of time or have been revoked. But as
11:01:34 29 things stand at present I think it would be safe if we
11:01:37 30 didn't mention the name that the Commissioner mentioned a
11:01:43 31 moment ago during the course of this evidence.
11:01:45 32
11:01:45 33 COMMISSIONER: I guess that's right if there's an order
11:01:49 34 prohibiting it.
11:01:50 35
11:01:50 36 MR WINNEKE: There appears to be.
11:01:51 37
11:01:51 38 COMMISSIONER: If there is an order prohibiting it, and we
11:01:54 39 know that an order was made and we don't know that it was
11:01:58 40 revoked at this stage and given the fact that the name has
11:02:04 41 been mentioned extensively in a highly publicised Supreme
11:02:10 42 Court judgment recently given, I think it is - and given
11:02:13 43 the High Court's judgment in the EF case, it's probably
11:02:21 44 appropriate that the Commission, if the order still exists,
11:02:25 45 that the Commission applies for the revocation of that
11:02:30 46 order.
11:02:30 47

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11:02:30 1 MR WINNEKE: Commissioner, I think that would be a
11:02:32 2 reasonable course to take in light of what's happened.
11:02:35 3
11:02:36 4 COMMISSIONER: I have asked that once we know that the
11:02:38 5 order is still in place, that the Commission will do so.
11:02:43 6 In the meantime the Commission of course is bound not to
11:02:46 7 mention the name and must assume that the order is still
11:02:51 8 current.
11:02:51 9
11:02:52 10 MR WINNEKE: Or indeed not just the name but anything that
11:02:54 11 might identify the person which would mean there would be
11:02:57 12 an awful lot of restriction on what could be said in open
11:03:02 13 hearing, or indeed in any hearing. But in any event, I
11:03:07 14 think that's something, I agree with you, Commissioner,
11:03:12 15 with respect that needs to be regularised.
11:03:15 16
11:03:15 17 COMMISSIONER: I think inquiries are still being made with
11:03:17 18 the Judicial Registrar as to whether the order has been
11:03:20 19 revoked.
20
21 MR WINNEKE: Yes.
22
11:03:21 23 COMMISSIONER: And we're waiting to hear back from the
11:03:25 24 Judicial Registrar on this.
11:03:25 25
11:03:26 26 MR WINNEKE: That's correct.
11:03:26 27
11:03:27 28 COMMISSIONER: All right, in the meantime we must tippy-toe
11:03:30 29 around that as well and we'll do so.
11:03:34 30
11:03:34 31 MR WINNEKE: Otherwise I think we're ready to call
11:03:38 32 Mr Bartlett, whose name can be mentioned I think.
11:03:41 33
11:03:42 34 MR HOLT: Commissioner, just perhaps before Mr Bartlett is
11:03:46 35 fetched, there are two matters. Can we just have a moment
11:03:50 36 to explain that to Mr Bartlett so that he's aware of the
11:03:54 37 position?
11:03:54 38
11:03:54 39 COMMISSIONER: Yes. What's happened to the revised and
11:03:57 40 extended Exhibit 81? Do you have that copy?
11:03:58 41
11:03:59 42 MR HOLT: I have that here.
43
44 COMMISSIONER: Is that name on there?
45
11:04:00 46 MR HOLT: It is. I was going to say it's [REDACTED] if that
11:04:02 47 assists people. It's [REDACTED]

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11:04:04 1
11:04:04 2 COMMISSIONER: Perhaps we should have some copies done of
11:04:08 3 that list during the break.
11:04:11 4
11:04:11 5 MR HOLT: I'm anxious not to be holding an exhibit,
11:04:15 6 Commissioner, if I can return it.
11:04:15 7
11:04:15 8 COMMISSIONER: Yes. This is an exhibit which is a work in
11:04:18 9 process apparently. I'm looking forward to the second
11:04:22 10 page.
11:04:23 11
11:04:24 12 MR HOLT: If there are only two pages we'll be doing well,
11:04:27 13 Commissioner.
11:04:28 14
11:04:28 15 COMMISSIONER: We will.
11:04:29 16
11:04:29 17 MR WINNEKE: We can't have Mr Bartlett's image or current
11:04:34 18 employment details.
11:04:36 19
11:04:36 20 COMMISSIONER: I have made an order about that.
21
11:04:39 22 MR WINNEKE: Just so everyone's aware of that.
11:04:39 23
11:04:39 24 MR HOLT: In terms of his statement, Commissioner, the
11:04:42 25 statement names ██████████ for obvious reasons so perhaps it
11:04:48 26 can be tendered and again placed in a sealed envelope until
11:04:50 27 that issue is resolved. There's one other issue that we've
11:04:51 28 raised with our learned friends. There are two operations
11:04:52 29 that are referred to in the statement. I'm sorry, are we
11:04:55 30 still in the closed hearing?
11:04:56 31
11:04:56 32 COMMISSIONER: We are still in closed hearing.
11:04:57 33
11:04:57 34 MR HOLT: Thank you. There are two operations that are
11:04:59 35 named in the statement, there are a number of operations
11:05:01 36 that are named in the statement. There are two operations,
11:05:03 37 and we only became aware of these very recently because of
11:05:08 38 the finding are Mr Bartlett's diaries in some random
11:05:12 39 location the night before last so they were reviewed
11:05:14 40 yesterday. There are two operations, Operation ██████████ and
11:05:17 41 Operation ██████████. Preliminary inquiries indicate that
11:05:21 42 both of those, or at least one of those or possibly both,
11:05:25 43 may involve human sources, and therefore on this basis and
11:05:27 44 out of an abundance of caution what we respectfully seek
11:05:31 45 until we're in a position to look at that issue more
11:05:33 46 closely is that Operation ██████████ be referred to as
11:05:36 47 Operation 1 and that Operation ██████████ be referred to as

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11:05:40 1 Operation 2.
11:05:41 2
11:05:41 3 COMMISSIONER: It looks as though we better put that on
11:05:43 4 Exhibit 81 too.
11:05:44 5
11:05:44 6 MR HOLT: I was going to suggest that, Commissioner.
11:05:46 7
11:05:46 8 COMMISSIONER: I'll return to Exhibit 81 to you and you can
11:05:50 9 amend it accordingly.
11:05:53 10
11:05:53 11 MR WINNEKE: Plenty of operations involve human sources.
11:05:58 12 It's not clear to me why we need to start referring to
11:05:58 13 operations. I mean these are operations which are in the
11:06:01 14 public domain. People know about these operations and a
11:06:04 15 lot of these operations involve human sources.
11:06:08 16
11:06:09 17 MR HOLT: Commissioner, we haven't sought redaction or
11:06:10 18 anonymisation of a number of a number of the operations on
11:06:14 19 that very basis. These are two operations which are not
11:06:16 20 either - if they're in the public domain it's only to a
11:06:18 21 very minor level. What's become clear in the course of the
11:06:23 22 proceeding and in respect of which we're going to seek to
11:06:25 23 assist the Commissioner shortly, is that we're obviously
11:06:28 24 dealing here with a unique process in terms of the way in
11:06:31 25 which matters are being investigated and obviously in an
11:06:35 26 entirely proper fashion. But what's become clear with
11:06:39 27 Operation Carron is that there is a risk inadvertently of
11:06:44 28 starting with a particular piece of information, here an
11:06:48 29 operation name, and then inadvertently as other critical
11:06:50 30 information comes around it, ending up in a situation where
11:06:54 31 we're at risk of identifying a human source or an informer.
11:06:56 32 What we want to do is to be able to assist the Commission
11:07:00 33 on a nuanced and case specific basis as to where
11:07:05 34 information might be redacted but in a way which least
11:07:08 35 interferes with the Commissioner's intention to make
11:07:10 36 matters public and have a sensible narrative. What we're
11:07:12 37 seeking to do with thee two is that we have only very
11:07:15 38 recently identified them as to have sufficient protection
11:07:17 39 to allow that to occur. And it may well be that they've
11:07:17 40 got no further part to play in this inquiry, that's just
11:07:21 41 irrelevant side winds. It may not be. But for present
11:07:25 42 purposes our respectful submission is that giving them
11:07:29 43 operation numbers allows the evidence to be given in a way
11:07:35 44 that doesn't destroy the narrative but also carries a
11:07:35 45 genuine likelihood of preventing a whole lot more public
11:07:35 46 interest immunity arguments down the track if we can avoid
11:07:35 47 them, which I'm very keen to do, Commissioner.

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11:07:37 1
11:07:37 2 COMMISSIONER: Can you help us by just taking me to the
11:07:42 3 paragraphs - - -
4
5 MR HOLT: Yes Commissioner.
6
11:07:43 7 COMMISSIONER: - - - of Mr Bartlett's evidence that you
11:07:44 8 want changed so there is no misunderstanding.
11:07:48 9
11:07:48 10 MR HOLT: Paragraph 15 is [REDACTED] and it's mentioned once,
11:07:52 11 Commissioner. And [REDACTED] is at 19, 20 and 21.
11:08:03 12
11:08:07 13 COMMISSIONER: Which is it, [REDACTED]
11:08:09 14
11:08:10 15 MR HOLT: [REDACTED] at 19, 20 and 21. And because the
11:08:16 16 statement hasn't been produced at present because of the
11:08:20 17 [REDACTED] issue we can attend to that if the Commissioner
11:08:23 18 pleases in the meantime.
11:08:28 19
11:08:28 20 COMMISSIONER: It's just those three changes?
11:08:31 21
11:08:32 22 MR HOLT: Yes, Commissioner.
11:08:33 23
11:08:33 24 MR WINNEKE: Commissioner, I've just done a Google search,
11:08:37 25 I found an article in The Age which is available to all
11:08:41 26 members of the public which says that: "Justice Simon
11:08:49 27 Whelan yesterday ordered that Tony Mokbel was deemed
11:08:52 28 convicted under the Confiscation Act of three drugs charges
11:08:56 29 laid in [REDACTED] following a police investigation code named
11:08:58 30 Operation [REDACTED]. Mokbel had been committed for trial on
11:09:01 31 charges of trafficking in a commercial quantity of ecstasy
11:09:04 32 and trafficking methylamphetamine and cocaine", et cetera.
11:09:07 33 Now that's in the public domain. I understand what my
11:09:11 34 learned friend says but every time you make an order along
11:09:14 35 these lines the narrative is in effect tampered with or you
11:09:22 36 lose an understanding of what's going on and what - I
11:09:26 37 haven't found anything about [REDACTED] yet. We've looked but
11:09:30 38 we can't find anything at this stage. I simply make that
11:09:34 39 point, Commissioner. It's not clear to me how if that
11:09:38 40 evidence is in the Commission how that in some way leads to
11:09:43 41 or puts people at risk. It's simply not clear to me.
11:09:47 42
11:09:47 43 MR HOLT: Commissioner, the point is we don't know and
11:09:49 44 what's happened with - the point is we don't know and the
11:09:54 45 point that's, the instructions I hold, and we are at the
11:09:58 46 moment seeking to assist the Commissioner in relation to
11:10:01 47 where these issues get much more complex later in the

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11:10:07 1 proceedings by putting together affidavit material, but
11:10:07 2 this issue arose because of diaries found very recently.
11:10:11 3 The difficulty is that one of the main ways in which human
11:10:12 4 sources are protected and informers are protected in terms
5 of their identity is by very careful regard being had to
11:10:15 6 what's called bio data, so the various different pieces of
11:10:19 7 information that might be able to be put together to
11:10:21 8 identify who they are. The core starting point for that is
11:10:24 9 often the name of an operation. The difficulty here,
11:10:27 10 Commissioner, is that when something is raised in a way
11:10:31 11 which appears on its face to be innocuous at the outset,
11:10:33 12 the risk is that we come down the track, more information,
11:10:38 13 as it did with Operation Carron, starts to arise and we get
11:10:39 14 into very genuine risks to human sources, including human
11:10:44 15 sources who public interest immunity may well almost always
11:10:46 16 attach to. So our concern here is to be cautious to ensure
11:10:51 17 that that initial piece of data is not immediately
11:10:55 18 available in a way that is then impossible to put back into
11:11:00 19 the box. That's why we seek to do it on the limited basis
11:11:01 20 while we make that assessment, Commissioner. These diaries
11:11:04 21 were, a big problem for us has been diaries. They're often
11:11:08 22 in different locations, personal holdings, random police
11:11:10 23 stations.

11:11:10 24
11:11:10 25 COMMISSIONER: When will you make that assessment and be
11:11:15 26 able to give us some material that might in fact justify
11:11:15 27 making the order?

11:11:16 28
11:11:17 29 MR HOLT: It's being done at present, Commissioner. It
11:11:17 30 started being done as soon as we became aware of this
11:11:24 31 overnight. It's being looked at now.

11:11:24 32
11:11:24 33 COMMISSIONER: That doesn't answer my question.

11:11:25 34
11:11:25 35 MR HOLT: No, it doesn't and I can't answer your question
11:11:26 36 more specifically, Commissioner. I will do so as soon as I
11:11:29 37 can. I need to update myself as to what's occurred this
11:11:29 38 morning. It's being done, Commissioner, but part of it may
11:11:32 39 well in fact be a need to assist the Commission with expert
11:11:36 40 evidence as to how these risks manifest and the way in
11:11:40 41 which these sorts of jigsaw puzzles are put together.

11:11:45 42
11:11:46 43 COMMISSIONER: What I am inclined to do is allow you to do
11:11:50 44 until next Wednesday.

45
46 MR HOLT: Thank you Commissioner.
47

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11:11:50 1 COMMISSIONER: And then you can report to the Commission by
11:11:52 2 next Wednesday with some material that might justify the
11:11:55 3 order.

4

5 MR HOLT: Thank you Commissioner.

6

7 COMMISSIONER: Obviously the material that you've placed -

11:11:56 8 well you haven't placed any material before me, but what
11:12:00 9 you've submitted in itself doesn't justify making the order
11:12:03 10 but I'm doing it in case there could be repercussions that
11:12:10 11 I cannot presently foresee.

11:12:13 12

11:12:13 13 MR HOLT: Thank you Commissioner.

11:12:14 14

11:12:15 15 COMMISSIONER: So, where is Exhibit 81? Are we putting
11:12:17 16 those on it? Just give that to Mr Holt and he can add to
11:12:23 17 that Operation [REDACTED] and Operation [REDACTED].

11:12:32 18

11:12:33 19 MR HOLT: Commissioner, might the orders that the
11:12:36 20 Commissioner has made in relation to [REDACTED] could we
11:12:40 21 just have an opportunity to explain that to the witness?

11:12:43 22

11:12:43 23 COMMISSIONER: Yes but let's just do this first.

11:13:11 24

11:13:11 25 MR HOLT: Commissioner, I've noted Exhibit 81 in accordance
11:13:13 26 with the Commissioner's direction. Item 25 now reads
11:13:21 27 Operation [REDACTED] with the pseudonym Operation 1. Item 26
11:13:21 28 now reads Operation [REDACTED] with pseudonym Operation 2 and
11:13:22 29 I'll return that to the Commission.

11:13:25 30

11:13:25 31 COMMISSIONER: Thank you. And I will have that retyped and
11:13:29 32 copies given to each of the represented parties and
11:13:36 33 obviously everyone with a copy of this will have to make
11:13:40 34 sure that it's kept confidential. All right, you need a
11:13:45 35 short adjournment to speak to Mr Bartlett and we'll resume
11:13:48 36 in opening hearing.

11:13:49 37

11:13:50 38 MR HOLT: Just a few minutes.

11:21:11 39

11:23:22 40 (Short adjournment.)

11:23:22 41

11:23:22 42 COMMISSIONER: Before we start in public hearing, I
11:23:26 43 understand from what I was told during the break that after
11:23:31 44 further discussions with the Supreme Court in terms of the
11:23:34 45 naming - and this is in private hearing, please - the
11:23:42 46 Supreme Court has taken the attitude that in relation to
11:23:48 47 the person that we were discussing earlier, they would not

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11:23:53 1 refer to him [REDACTED]
11:23:59 2 [REDACTED]
11:24:03 3 [REDACTED]. And I understood it
11:24:07 4 was agreed, Mr Holt, between you and counsel assisting the
11:24:14 5 Commission that that was an appropriate position to take
11:24:18 6 now, is that right?
11:24:19 7
11:24:20 8 MR HOLT: I think it sounds right, Commissioner. I'm not
11:24:23 9 sure that given the face of the order that I'm in a
11:24:25 10 position on behalf of Victoria Police to agree to that
11:24:27 11 course.
11:24:28 12
11:24:28 13 COMMISSIONER: Make that concession.
11:24:30 14
11:24:30 15 MR HOLT: I apologise, it seems sensible with respect but
11:24:33 16 the order is plain on its face that we've seen.
11:24:36 17
11:24:37 18 COMMISSIONER: What do you say, Mr Woods?
11:24:39 19
11:24:39 20 MR WOODS: It appears to me that the references to [REDACTED]
11:24:43 21 in the statement and in the diaries wouldn't fall foul of
11:24:48 22 the Supreme Court's understanding of the order if that
11:24:51 23 person were named in questions of this witness.
11:24:55 24
11:24:56 25 COMMISSIONER: All right.
11:24:57 26
11:24:58 27 MR WOODS: That said, I don't have a direct understanding
11:25:02 28 of what the Supreme Court has said and whether this is an
11:25:06 29 interpretation of an officer of the court or a judge of the
11:25:09 30 court.
11:25:11 31
11:25:11 32 COMMISSIONER: Sure. I think let's live dangerously and
11:25:15 33 we'll assume that that is the interpretation, is the
11:25:17 34 appropriate interpretation to take and in that case it
11:25:22 35 would not be necessary for the witness to, in his evidence,
11:25:27 36 which is all about this person as a witness.
11:25:31 37
11:25:31 38 MR WOODS: That's correct, that's my understanding, yes.
11:25:34 39
11:25:35 40 COMMISSIONER: To refer to him by a pseudonym.
11:25:42 41
11:25:43 42 MR WOODS: Yes. And if it assists, the communication that
11:25:46 43 we've received from the court I perhaps should put on the
11:25:48 44 record, if that assists, that the order was made during a
11:25:51 45 revocation of bail for a particular person. The
11:25:55 46 substantive trials of two other persons occurred after
11:26:01 47 that. This person was a witness - well, I'll be coy

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11:26:10 1 because there are journalists and members of the public in
11:26:13 2 the room at the moment but they would be subject to - - -
11:26:16 3
11:26:17 4 COMMISSIONER: It's a private hearing so this cannot be
11:26:20 5 published.
11:26:21 6
11:26:21 7 MR WOODS: I'm sure they understand.
8
9 COMMISSIONER: Yes.
10
11:26:23 11 MR WOODS: This witness was a witness in many criminal
11:26:26 12 trials and his status as a witness became known to the
13 defendants at the time briefs of evidence were served,
11:26:32 14 which is inevitable. The Court of Appeal in deciding what
11:26:34 15 information should be redacted from Justice Ginnane's
11:26:38 16 judgment ordered that redaction was only allowed of
11:26:42 17 material that would identify or tend to identify the person
11:26:47 18 [REDACTED] and that the
11:26:50 19 judgment in fact does that, and that the officer is not
11:26:51 20 aware of any order revoking the order that we're now
11:26:55 21 familiar with, which is Justice Hargreaves' order of 17
11:27:00 22 April 2007.
11:27:01 23
11:27:01 24 COMMISSIONER: Thanks Mr Woods. As I've stated I think
11:27:03 25 it's appropriate that the Commission follows that
11:27:07 26 interpretation of the prohibition order.
11:27:11 27
11:27:12 28 MR WOODS: Yes.
11:27:12 29
11:27:13 30 COMMISSIONER: All right then. So you'll tell the witness
11:27:15 31 that when he comes to give evidence. He's here in court.
11:27:22 32 The witness has heard this.
11:27:23 33
11:27:24 34 MR WOODS: Yes, and what I would propose is I would be
11:27:27 35 naming that individual but in the appropriate context only.
11:27:30 36
11:27:31 37 COMMISSIONER: I understand. Thank you. Life's not
11:27:33 38 simple, is it?
11:27:35 39
11:27:36 40 MR WOODS: No, not in this room. That being the case I
11:27:40 41 think the live stream can be reignited.
11:27:45 42
11:27:46 43 MR HOLT: I'm sorry, Commissioner, I'm just catching the
11:27:47 44 eye of the witness and I'm not sure he completely
45 understands where we're at. Might I just approach him, we
46 don't need to - - -
47

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1 COMMISSIONER: Sure.
2
11:27:54 3 MR HOLT: Or my junior can do that.
11:27:55 4
11:27:56 5 COMMISSIONER: Yes, I can understand why his eyes might
11:27:58 6 have glazed over with that conversation. So we're now in
11:28:05 7 public session.
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12:06:49 1 COMMISSIONER: All right, we're now in closed hearing.
2
3 MR HOLT: Thank you, Commissioner.
4
12:06:53 5 COMMISSIONER: So nothing is to be published arising out of
12:06:56 6 what is now said.
12:06:57 7
12:06:58 8 MR HOLT: And there's an interim order in relation to
12:07:03 9 publication of [REDACTED] name - I'm grateful for that,
12:07:05 10 Commissioner - just while these submissions are being made.
12:07:06 11
12:07:07 12 COMMISSIONER: Yes.
12:07:07 13
12:07:07 14 MR HOLT: Commissioner, the position appears to be, on the
12:07:11 15 basis of the instructions that I hold, that the media have
12:07:15 16 not in fact to date published [REDACTED] name in the kind
12:07:19 17 of context in which it's been given today, nor has his
12:07:23 18 image been published, and that's so notwithstanding the
12:07:28 19 judgment of Justice Ginnane and the material that's in
12:07:29 20 there, nor in fact the court file which has now been
12:07:33 21 provided with redactions which don't include [REDACTED]
12:07:36 22 name. But in light of the fact that that material has
12:07:39 23 never been published in the media and, in particular, his
12:07:42 24 image has never been published in the media, as we
12:07:47 25 understand it, what I do seek, Commissioner, is an
12:07:50 26 opportunity with an interim non-publication order in place
12:07:53 27 perhaps to do two things. Firstly, to take instructions as
12:07:54 28 to what steps might be necessary on a short-term basis to
12:07:58 29 take any steps that might be necessary for safety and
12:08:02 30 protection of [REDACTED] and the second is perhaps to
12:08:05 31 ensure, and it's probably more a matter with respect to the
12:08:09 32 Commission, to ensure the position in relation to that
12:08:11 33 suppression order is known, but I would expect the media
12:08:15 34 might want confirmation of that, in any event that there is
35 a suppression order that on its face appears to prevent
12:08:19 36 publication, but my primary concern is in relation to the
12:08:21 37 first issue of PII assessment, Commissioner.
12:08:23 38
12:08:23 39 COMMISSIONER: I'm not really understanding this clearly.
12:08:26 40 So your application is for a suppression order.
12:08:30 41
12:08:30 42 MR HOLT: A non-publication order in respect of the name of
12:08:33 43 [REDACTED]
12:08:34 44
12:08:34 45 COMMISSIONER: Even in respect of the public hearing?
12:08:38 46
12:08:38 47 MR HOLT: Yes. Our concern is - I acknowledge that his

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12:08:43 1 name in the context of the evidence that's been given is on
12:08:45 2 the Austlii website in relation to Justice Ginnane's
12:08:49 3 judgment. I accept that without reservation.

12:08:50 4
12:08:50 5 COMMISSIONER: And also it would be on public record in
12:08:53 6 respect to his sentencing proceedings and in relation to
12:08:55 7 other sentencing proceedings.

12:08:55 8
12:08:56 9 MR HOLT: I doubt that, Commissioner, but possibly. Let's
12:08:58 10 accept that for present purposes. Our concern is only one
12:09:02 11 to ensure, and I'm sorry, these are instructions I've only
12:09:04 12 very recently received, to ensure that if, contrary to the
12:09:06 13 way in which the media has been reporting this person,
12:09:09 14 which is to refer to him only as the cook to date in media
12:09:13 15 articles over the last however long, and there's also been
12:09:17 16 no publication of his image which is a significant issue.
12:09:20 17 The media may consider themselves still to be bound in some
12:09:25 18 respect by that Supreme Court order until it's resolved but
12:09:28 19 nonetheless before there was that kind of saturated
12:09:32 20 publication which is, with respect, likely, I seek a
12:09:34 21 non-publication order in relation to that matter so we can
12:09:38 22 make appropriate inquiries and come to the Commission if we
12:09:43 23 need an order that goes beyond that. I'm content for that
12:09:44 24 to be a time limited order is that assists, Commissioner,
12:09:52 25 with us coming back to make a further application but I'm
12:09:52 26 told that it's an issue of at least a potential risk to
12:09:53 27 human safety and so I need to make the application.

12:09:53 28
12:09:53 29 COMMISSIONER: So just to clarify, it's an application for
12:09:55 30 a non-publication order of [REDACTED] name and an
12:09:58 31 application of a non-publication order of [REDACTED]
12:10:02 32 image.

12:10:03 33
12:10:03 34 MR HOLT: Yes, Commissioner.

12:10:06 35
12:10:06 36 COMMISSIONER: Would you be in a position to make a
12:10:12 37 detailed application next Wednesday?

12:10:14 38
12:10:14 39 MR HOLT: Yes, Commissioner.

12:10:16 40
12:10:16 41 COMMISSIONER: All right. What do you say, Mr Woods or
12:10:18 42 Mr Winneke, who's speaking on behalf of counsel assisting?

12:10:21 43
12:10:24 44 MR WOODS: I think if it's limited in time, the
12:10:26 45 turn-around, then it's appropriate to make the order in my
12:10:29 46 submission because it gives Victoria Police the opportunity
12:10:33 47 to work it out.

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12:10:34 1
12:10:34 2 COMMISSIONER: All right then. I'm satisfied that the
12:10:37 3 interests of justice require under the *Inquiries Act* that I
12:10:44 4 make the following orders, that there be a non-publication
12:10:48 5 order in respect of [REDACTED] name until Wednesday 8
12:11:09 6 May, until 12 noon on Wednesday 8 May, and I further order
12:11:19 7 that there be a non-publication order of [REDACTED]
12:11:23 8 image until 12 noon on Wednesday 8 May.
12:11:26 9
12:11:27 10 MR HOLT: Plainly, Commissioner, if our position changes in
12:11:30 11 respect of that we'll give the Commission immediate notice
12:11:33 12 of it.
12:11:34 13
12:11:34 14 COMMISSIONER: Thank you. Mr Winneke.
12:11:35 15
12:11:35 16 MR WINNEKE: I understand that. The next witnesses,
12:11:43 17 Commissioner, that - the next witness that it's proposed to
12:11:48 18 call is Mr Peter De Santo.
12:11:59 19
12:11:59 20 COMMISSIONER: That probably doesn't need to be in closed
12:12:02 21 court.
12:12:02 22
12:12:03 23 MR WINNEKE: No, it doesn't, no.
12:12:04 24
12:12:04 25 COMMISSIONER: There's another matter that does, I think,
12:12:06 26 perhaps. A 1st PO
12:12:10 27
12:12:10 28 MR HOLT: Are we still in closed court, Commissioner?
12:12:11 29
12:12:12 30 COMMISSIONER: Yes, we're still in closed hearing, and
12:12:12 31 that's why I've raised it now. So we still haven't
12:12:17 32 resolved that issue yet.
12:12:19 33
12:12:19 34 MR WINNEKE: No, we haven't, and we want to hear from
12:12:22 35 Mr [REDACTED].
12:12:23 36
12:12:23 37 COMMISSIONER: Yes.
12:12:25 38
12:12:26 39 MR WINNEKE: We understand that A 1st PO [REDACTED] is not
12:12:29 40 well, although the extent of his illness is not clear.
12:12:34 41
12:12:35 42 COMMISSIONER: Yes, we understand from the material that
12:12:37 43 I've seen so far that he's unwell and apparently unable to
12:12:43 44 work but nevertheless the material that's been placed
12:12:48 45 before the Commission doesn't really go so far, at present
12:12:52 46 doesn't go so far as to say that he's unable to give
12:12:56 47 evidence to the Commission with support people and by

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12:12:59 1 telephone link, in the comfort of his own home, and so
12:13:03 2 forth.
12:13:03 3
12:13:03 4 MR WINNEKE: No, I agree. Certainly, Commissioner - and
12:13:07 5 obviously we're quite flexible about the way in which we
12:13:11 6 take evidence.
12:13:12 7
12:13:12 8 COMMISSIONER: Yes, I'm certainly flexible in that respect.
12:13:15 9
12:13:15 10 MR WINNEKE: It may well be that it can be done by
12:13:18 11 telephone. It ought be on oath.
12
13 COMMISSIONER: Yes.
14
12:13:23 15 MR WINNEKE: If steps could be put in train to have him
12:13:25 16 available by telephone we would certainly welcome the
12:13:29 17 opportunity to speak to him because, as I say, we'd like to
12:13:32 18 hear from him.
12:13:33 19
12:13:33 20 COMMISSIONER: Yes, and we can take it at his pace and I
12:13:37 21 can certainly ensure that he's treated courteously and
12:13:41 22 respectfully.
12:13:42 23
12:13:42 24 MR WINNEKE: As all witnesses are.
12:13:43 25
12:13:43 26 COMMISSIONER: As all witnesses are, exactly, but I will
12:13:47 27 certainly be mindful of any cross-examination, that any
12:13:51 28 cross-examination takes into account his apparent health
12:13:54 29 problems at the moment.
12:13:55 30
12:13:56 31 MR WINNEKE: Yes.
12:13:56 32
12:13:56 33 COMMISSIONER: So where are we - - -
12:14:02 34
12:14:02 35 MR HOLT: I think I indicated yesterday, Commissioner, that
12:14:04 36 we had him seeing a medical professional this morning and
37 my expectation was that I'd have the report by now. I'm
12:14:09 38 just having that checked, I'm sorry, we've been in the
12:14:11 39 hearings all morning so I haven't been able to check that,
12:14:14 40 something which provides some more detail. I understand,
12:14:14 41 and we'll wait for the report, but I understand the medical
12:14:17 42 condition is a particularly severe one and so do want to
12:14:23 43 see the report and respectfully submit that is appropriate
12:14:27 44 before making decisions about how to proceed.
12:14:27 45
12:14:27 46 COMMISSIONER: Yes. It just was curious if that was so,
12:14:30 47 why there wasn't a psychiatric report.

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12:14:33 1
12:14:34 2 MR HOLT: As I understand the report from the psychologist,
12:14:37 3 that came from the treating psychologist.
12:14:39 4
12:14:39 5 COMMISSIONER: The report I saw was from a nurse
12:14:42 6 practitioner.
12:14:43 7
12:14:43 8 MR HOLT: He is a psychologist, Commissioner, I checked
12:14:46 9 that overnight because that was a suggestion made
12:14:46 10 yesterday, but he is a psychologist.
12:14:48 11
12:14:48 12 COMMISSIONER: He is a registered psychologist.
12:14:50 13
12:14:51 14 MR HOLT: He does in fact have a doctorate qualification.
12:14:54 15
12:14:55 16 COMMISSIONER: I'm not saying that a nurse practitioner
12:14:58 17 with relevant qualifications wouldn't be an expert witness
12:15:02 18 but - - -
12:15:02 19
12:15:02 20 MR HOLT: In any event, Commissioner, we accept that the
12:15:05 21 Commission has said that that information wasn't up to
12:15:07 22 scratch.
12:15:07 23
12:15:08 24 COMMISSIONER: Yes. There were other issues with it,
12:15:10 25 weren't there?
12:15:10 26
12:15:10 27 MR HOLT: I understand. He's been seen this morning.
12:15:13 28 There are real issues, and we want to make sure the right
12:15:16 29 information is before the Commissioner. We should be
12:15:19 30 getting that report pretty soon I hope.
12:15:21 31
12:15:21 32 COMMISSIONER: Yes, but at the same time would it be
12:15:23 33 possible to speak to him about the importance of hearing
12:15:26 34 from him, that we wouldn't expect him to be questioned at
12:15:29 35 length or in any gruelling way, it could be done by
12:15:33 36 telephone, he could have his support people and other
12:15:36 37 people with him, he could have a cup of tea with him.
12:15:39 38
12:15:40 39 MR HOLT: Commissioner, those issues have been discussed, I
12:15:44 40 should say through an intermediary he's prepared to speak
12:15:45 41 to within Victoria Police.
42
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44 COMMISSIONER: Yes.
45
12:15:46 46 MR HOLT: So there are real difficulties with that. We're
12:15:46 47 not trying to be obstructive, we're trying to be of

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12:15:50 1 assistance, and it may well be that if we could just get
12:15:53 2 this report that we're looking for at the moment we can
12:15:55 3 deal with that.
12:15:55 4
12:15:55 5 COMMISSIONER: It was just from a GP this morning, so I
12:15:58 6 don't know that those issues are going to be dealt with in
12:16:01 7 the report, but I understand that you'd like to see the
12:16:04 8 report.
12:16:04 9
12:16:05 10 MR HOLT: I don't want the Commissioner to be left in a
12:16:07 11 position, because of inadequacy of material, of making
12:16:12 12 orders in respect of a person which might do damage to that
12:16:13 13 person.
12:16:13 14
12:16:14 15 COMMISSIONER: No, I understand that, I understand that,
12:16:15 16 and I'm not going to rush in in that respect, but I do want
12:16:18 17 him to understand that the Commission is prepared to be
12:16:23 18 extremely accommodating.
12:16:25 19
12:16:25 20 MR HOLT: Thank you Commissioner.
12:16:26 21
12:16:26 22 COMMISSIONER: By telephone, to allow him to give his
12:16:31 23 evidence by telephone in the comfort of his own home and to
12:16:35 24 let him have whatever breaks he needs and so forth.
12:16:40 25
12:16:41 26 MR HOLT: We just want to ensure that the proper
12:16:43 27 information is before the Commission, so we'll put to one
12:16:46 28 side that other material and we'll understand what the
12:16:46 29 report is and if that requires a psychiatric report then
12:16:50 30 we'll attend to that urgently, but we hope that the
12:16:55 31 material this morning is sufficient to find some way
12:16:58 32 through this, Commissioner. We've heard what the
33 Commissioner's said about options and we'll continue to
12:16:59 34 explore those when - - -
12:16:59 35
12:17:00 36 COMMISSIONER: I think that's all we need to say in open
12:17:05 37 court. We might mention this again at 2 o'clock. That
38 will give you time to - - -
39
40 MR HOLT: I would hope so, Commissioner.
41
42 COMMISSIONER: All right, we'll mention it again at 2
12:17:08 43 o'clock.
12:17:08 44
12:17:09 45 MR WINNEKE: Commissioner, we don't have any more witnesses
12:17:12 46 today.
12:17:12 47

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12:17:12 1 COMMISSIONER: Yes. Yes, I would like to hear though
12:17:15 2 what's happening so we could mention it in an hour perhaps.
12:17:20 3
12:17:20 4 MR WINNEKE: Perhaps it may well be that Mr Holt doesn't
12:17:22 5 need until 2 o'clock to find out what the situation is.
12:17:28 6
7
12:17:28 8 MR HOLT: I don't know, Commissioner, I'm sorry, I just
12:17:31 9 need to find out. Would it be possible to stand down for
12:17:34 10 just a few minutes and I can make some immediate inquiries
12:17:34 11 and then let the Commission know what the timeline is?
12:17:34 12 COMMISSIONER: Yes, all right. We're going to go out of
12:17:38 13 private hearing shortly and back to public hearing and
12:17:39 14 discuss Mr De Santo.
15
12:17:42 16 MR WINNEKE: Mr De Santo - - -
12:17:42 17
12:17:42 18 COMMISSIONER: Wait on. That doesn't need to be in private
12:17:45 19 hearing, does it?
12:17:45 20
12:17:45 21 MR WINNEKE: Not as far as I know.
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