

ROYAL COMMISSION INTO THE MANAGEMENT
OF POLICE INFORMANTS

Held in Melbourne, Victoria

On Tuesday, 18 June 2019

Led by Commissioner: The Honourable Margaret McMurdo AC

Also Present

Counsel Assisting: Mr C. Winneke QC
 Mr A. Woods

Counsel for Victoria Police Mr J. Hannebery QC
 Ms R. Enbom
 Ms K. Argiropoulos

Counsel for State of Victoria Mr G. Hill

Counsel for Nicola Gobbo Mr P. Collinson QC
 Mr R. Nathwani

Counsel for DPP/SPP Mr P. Doyle

Counsel for Police Handlers Mr G. Chettle

Counsel for Tim Argall Mr A. Purcell

10:07:10 1 COMMISSIONER: Yes Mr Winneke.
10:07:11 2
10:07:13 3 MR WINNEKE: Good morning, Commissioner, I appear with
10:07:15 4 Mr Woods to assist the Commission.
10:07:16 5
10:07:16 6 COMMISSIONER: Thank you.
10:07:17 7
10:07:17 8 MR COLLINSON: I appear with Mr Nathwani for Ms Gobbo.
10:07:22 9
10:07:22 10 COMMISSIONER: Thank you.
10:07:23 11
10:07:23 12 MR HANNEBERY: I appear with Ms Enbom and Ms Argiropoulos on
10:07:27 13 behalf of Victoria Police.
10:07:29 14
10:07:29 15 COMMISSIONER: Thank you Mr Hannebery.
10:07:31 16
10:07:33 17 MR HILL: Mr Hill for the State.
18
10:07:34 19 COMMISSIONER: Thank you, Mr Hill.
10:07:34 20
10:07:35 21 MR CHETTLE: I appear unsupervised for the handlers.
22
10:07:38 23 COMMISSIONER: Thanks, Mr Chettle.
10:07:38 24
10:07:38 25 MR PURCELL: Morning, Commissioner, my name's Purcell, I
10:07:38 26 appear on behalf of Mr Argall. I seek leave to do so.
27
10:07:42 28 COMMISSIONER: Thanks Mr Purcell.
10:07:42 29
10:07:42 30 MR DOYLE: Commissioner, I appear on behalf of the Director
10:07:45 31 of Public Prosecutions.
10:07:45 32
10:07:45 33 COMMISSIONER: Thanks Mr Doyle. That's all the appearances
10:07:48 34 we have this morning? Yes, thank you. Yes, Mr Winneke.
10:07:51 35
10:07:53 36 MR WINNEKE: Commissioner, Mr Argall has attended again
10:07:56 37 today pursuant to a request to give further evidence and
10:07:58 38 I'd call him.
10:07:59 39
10:08:00 40 COMMISSIONER: Yes. Mr Argall, you're on your former
10:08:09 41 oath?---Yes.
10:08:10 42
10:08:10 43 Thank you.
10:08:11 44
10:08:12 45 <TIMOTHY ARGALL, recalled:
10:08:15 46
10:08:15 47 MR WINNEKE: Mr Argall, you have given evidence previously

10:08:20 1 that you were a friend of Mr Dale's, Paul Dale's?---Yes.
10:08:27 2
10:08:27 3 Did you watch the evidence that was given yesterday by
10:08:31 4 Mr Dale?---I saw part of it.
10:08:32 5
10:08:32 6 You've known Mr Dale for quite some time and I take it you
10:08:36 7 agree that you met him first around the time you were both
10:08:38 8 in the Homicide Squad; is that right?---Yes.
10:08:40 9
10:08:40 10 Attached to the Lorimer Task Force?---Yes.
10:08:43 11
10:08:43 12 And you and he became quite close friends over a number of
10:08:49 13 years, commencing from about 97, 98 and continuing on
10:08:53 14 through to 2002, 3?---Yes.
10:08:55 15
10:08:56 16 And you would communicate with each other in person
10:09:00 17 socially?---Yes.
10:09:01 18
10:09:01 19 You went to Homicide Squad functions on occasions and met
10:09:06 20 each other?---Yes.
10:09:07 21
10:09:08 22 Do you believe that Ms Gobbo on occasions attended those
10:09:11 23 Homicide Squad functions and certainly socialised with
10:09:15 24 you?---Yes.
10:09:15 25
10:09:16 26 Do you know and do you recall whether she socialised with
10:09:19 27 Mr Dale on any of those occasions?---I think she probably
10:09:24 28 did.
10:09:25 29
10:09:25 30 Yes?---Yep.
10:09:26 31
10:09:26 32 Okay. We're talking about periods subsequent to the time
10:09:31 33 that Debs and Roberts were arrested I think in July of
10:09:38 34 2002, would that be right - 2000, I apologise?---Yes, it
10:09:42 35 would have been after that time.
10:09:43 36
10:09:44 37 And you had catch ups after the arrest in that operation I
10:09:50 38 take it?---Yes.
10:09:51 39
10:09:51 40 You remained in the Homicide Squad after that, Mr Dale left
10:09:53 41 the Homicide Squad and went to Brunswick as a
10:09:57 42 Sergeant?---That's right.
10:09:58 43
10:09:59 44 Okay. In 2002 you were residing in an area relatively
10:10:04 45 close to Mr Dale and his family?---Yes.
10:10:06 46
10:10:07 47 At that stage you were married?---Yes.

10:10:08 1
10:10:09 2 And Mr Dale was married?---Yes.
10:10:10 3
10:10:12 4 And you caught up with each other on occasions?---Yes.
10:10:14 5
10:10:17 6 At that stage, from say 2002 onwards, that situation
10:10:22 7 pertained; is that right?---Yes.
10:10:24 8
10:10:27 9 Would you - you've given evidence previously of an intimate
10:10:34 10 connection with Ms Gobbo, that's going back some
10:10:36 11 years?---Yes.
10:10:36 12
10:10:37 13 You say one occasion only?---Correct.
10:10:38 14
10:10:39 15 Never occurred after that?---No.
10:10:40 16
10:10:41 17 All right. You're sure about that?---Certain.
10:10:48 18
10:10:48 19 Yeah, okay. Do you say that you would not meet Ms Gobbo at
10:10:56 20 about that time to have social contact or do you say that
10:11:00 21 that did occur on occasions, say in around 2002?---Yeah, it
10:11:09 22 was probably less frequent but, yes, I still would have had
10:11:12 23 some social contact with her.
10:11:14 24
10:11:15 25 All right. Aside from functions where you attended, such
10:11:20 26 as the Homicide Squad functions where Mr Dale was also
10:11:22 27 there, did you on occasions have more intimate connections,
10:11:28 28 and I use that not in the sexual sense, but more intimate
10:11:32 29 social contact between you, Mr Dale and Ms Gobbo in that
10:11:39 30 period around 2002?---There would be occasions where we,
10:11:46 31 perhaps Paul and I were out for a drink and Nicola would be
10:11:50 32 there or turn up or whatever and the three of us would end
10:11:53 33 up in a group talking or socialising together.
10:11:58 34
10:11:58 35 Okay. Now this is before we get to the Dublin Street
10:12:01 36 burglary, are you clear about that?---No, I'm - no, I don't
10:12:11 37 - I'm not sure. I would have thought maybe before then but
10:12:14 38 I can't be certain.
10:12:15 39
10:12:16 40 Okay, all right then. Aside from those sorts of social
10:12:22 41 contacts how regularly would you contact Ms Gobbo, say in
10:12:28 42 the period 2002 into 2003, September?---Oh, I'd be
10:12:40 43 guessing. It could have been every couple of weeks maybe.
10:12:46 44
10:12:46 45 Yeah?---Maybe less than that, maybe more than that. Yeah,
10:12:51 46 I'm not sure to be honest with you.
10:12:53 47

10:12:53 1 All right. So in 2002 - - - ?---It was - - -
10:12:57 2
10:12:58 3 Sorry?---I was going to say probably in 2002 it might have
10:13:01 4 been less because I reckon that was when I perhaps
10:13:04 5 transferred to Brunswick.
10:13:05 6
10:13:05 7 Right?---So I perhaps didn't have as much contact with her
10:13:10 8 when I was at Brunswick.
10:13:12 9
10:13:12 10 What about 2003?---I would have still been at Brunswick,
10:13:16 11 so.
10:13:16 12
10:13:17 13 Aside from particular circumstances, for example, if you
10:13:19 14 were arranging to meet or go to a function like that, would
10:13:22 15 there be general discussions or communications on the
10:13:24 16 telephone or not?---No, not a lot I wouldn't have thought.
10:13:27 17
10:13:27 18 So you wouldn't ring up just to say g'day, how are things
10:13:32 19 going, simply for the purpose of having a chat?---Yeah, I'm
10:13:34 20 not saying it didn't happen but it wouldn't have been often
10:13:37 21 I wouldn't have thought.
10:13:38 22
10:13:38 23 Yeah, okay. On 27 September 2003 you were at Mr Dale's
10:13:45 24 Grand Final day barbecue?---Yes.
10:13:47 25
10:13:50 26 I take it there was communication between you and he
10:13:53 27 leading up to that event?---I expect there would have been.
10:13:57 28
10:13:57 29 How would you communicate with Mr Dale as a general
10:14:00 30 proposition?---Oh, quite often on the phone.
10:14:05 31
10:14:05 32 Yeah, all right?---Yeah, often sometimes we just call in at
10:14:11 33 each other's house.
10:14:12 34
10:14:13 35 How far away were you from each other?---Initially we were
10:14:19 36 probably three or four streets away. I think by the time
10:14:23 37 you're talking about the barbecue Paul had moved to sort of
10:14:26 38 North Coburg, I suppose, so he was a bit further away.
10:14:30 39 But, yeah, we were still in the same suburb.
10:14:32 40
10:14:32 41 So you still might go round to each other's house and
10:14:35 42 stuff?---Yeah.
10:14:36 43
10:14:36 44 You'd use his landline to communicate with him, home phone
10:14:40 45 number?---Probably less than his mobile, but yeah.
10:14:43 46
10:14:43 47 And you had his mobile obviously, he had a personal mobile

10:14:48 1 phone; is that right?---Paul did?
10:14:50 2
10:14:50 3 Paul did?---Yes.
10:14:52 4
10:14:53 5 Was there one phone that he had that you would call or more
10:14:55 6 than one phone he had that you would call?---I think he had
10:14:59 7 a work phone as well. He might have had a couple of work
10:15:02 8 phones maybe, but yeah.
10:15:04 9
10:15:05 10 What number would you call him, as a matter of course,
10:15:08 11 on?---I think probably his personal phone more than his
10:15:10 12 work phone.
10:15:11 13
10:15:12 14 Okay. What about you, did you have one phone or a number
10:15:15 15 of phones, mobile phones?---I had a personal phone. I may
10:15:19 16 have from time to time had access to a work phone.
10:15:22 17
10:15:23 18 So you might - the first port of call would be to use your
10:15:27 19 personal mobile phone and call Dale's personal mobile
10:15:32 20 phone?---Yes.
10:15:33 21
10:15:33 22 And you had that on a speed dial, or whatever, on your
10:15:38 23 phone, I assume, your mobile phone?---No doubt.
10:15:39 24
10:15:39 25 No doubt, all right. Okay. You became aware reasonably
10:15:46 26 soon about the events that had occurred at the Dublin
10:15:50 27 Street house 2003?---Yes.
10:15:52 28
10:15:52 29 When did you first hear about that?---Oh, I think it would
10:15:56 30 have been in the couple of days afterwards.
10:15:58 31
10:15:59 32 Right. Did you have any particular discussions with
10:16:06 33 Mr Dale about what had occurred? Do you recall speaking to
10:16:09 34 him about what had occurred?---Yeah. I remember him saying
10:16:15 35 that someone from his crew had been arrested nearby that
10:16:21 36 night and, yeah.
10:16:23 37
10:16:24 38 He would have told you it was Dave Miehchel, wouldn't
10:16:27 39 he?---Yes, I think he did.
10:16:28 40
10:16:28 41 Because you were a friend of Dave's, weren't you?---I'd met
10:16:31 42 Dave through Paul, yeah.
10:16:32 43
10:16:33 44 Yes?---Yeah.
10:16:34 45
10:16:34 46 How frequently would you communicate with him and meet with
10:16:37 47 him?---Oh, not as often. He was sort of a peripheral

10:16:41 1 friend of a friend really, I suppose.
10:16:42 2
10:16:43 3 Of Paul, okay. So he would have told you about the fact
10:16:47 4 that Miechel had been arrested I assume?---Yeah.
10:16:50 5
10:16:55 6 Do you recall that Dale a couple of days or a number of
10:17:03 7 days after the events which occurred on Grand Final night
10:17:10 8 went off on leave for a few days?---Yeah, I reckon it might
10:17:14 9 have been a week or so perhaps.
10:17:16 10
10:17:16 11 Yeah?---Yeah.
10:17:16 12
10:17:17 13 And that was something that you were aware of, weren't
10:17:19 14 you?---Yes.
10:17:19 15
10:17:20 16 And you'd had discussions with him about that?---No, I
10:17:25 17 don't know that I necessarily talked to him much about it
10:17:28 18 but I knew he was off on leave, or perhaps sick leave even.
10:17:31 19
10:17:35 20 Did you have discussions with him about why he was on
10:17:38 21 leave, sick leave?---Oh, in a general sense I understood he
10:17:43 22 was stressed about what was going on at work but I didn't
10:17:47 23 delve too far into it.
10:17:49 24
10:17:49 25 Yeah. You knew he was stressed. Did you have any idea at
10:17:56 26 all about why he was stressed?---Not really.
10:17:58 27
10:17:58 28 Okay. I wonder if you could have a look at a document.
10:18:07 29 It's a - I'm going to put a hard copy of a document in
10:18:11 30 front of you just so as you can look at that. That's,
10:18:16 31 Commissioner, the colour-coded document we referred to
10:18:19 32 yesterday. I think it's got an exhibit number, I'm not too
10:18:22 33 sure what it is though.
10:18:22 34
10:18:23 35 COMMISSIONER: The telephone?
10:18:25 36
10:18:26 37 MR WINNEKE: Yes, telephone, CCR records.
10:18:27 38
10:18:28 39 COMMISSIONER: That's 233, thank you.
10:18:30 40
10:18:30 41 MR WINNEKE: 233. You see that that actually says it's a
10:18:35 42 memorandum to counsel, do you see that, in attachment
10:18:37 43 number 7?---Yes.
10:18:38 44
10:18:38 45 If you have a look at the first page of the document,
10:18:41 46 turning over to p.1 of 32, do you see that there's a legend
10:18:45 47 of telephone numbers there?---Yes.

10:18:47 1
10:18:47 2 And you'll see that there's a pink or a red one which has
10:18:51 3 Gobbo and a telephone number for her, a telephone number
10:18:53 4 for you; do you see that there?---Yes.
10:18:55 5
10:18:56 6 Was that your personal phone number?---Yes.
10:18:58 7
10:18:58 8 The next one is Dale's, blue, do you see that there?---Yes.
10:19:02 9
10:19:02 10 Can you read that number and confirm that that was Paul
10:19:06 11 Dale's mobile phone number?---The number doesn't mean
10:19:09 12 anything to me, but.
10:19:10 13
10:19:10 14 If you can accept the proposition, I think Mr Dale accepted
10:19:13 15 that was his phone number?---Yep.
10:19:15 16
10:19:15 17 Personal phone number?---Yes.
10:19:16 18
10:19:16 19 You don't dispute that?---No.
10:19:18 20
10:19:18 21 All right. If we go to p.4 of that document you can see
10:19:28 22 that if you look at 29 September 2003 there was a
10:19:33 23 communication between you and he, 29 September, top of the
10:19:39 24 page, it's a yellow number going to a blue number, which is
10:19:43 25 you to Dale?---Yes.
10:19:44 26
10:19:44 27 Do you see that?---Yes.
10:19:45 28
10:19:46 29 I'm not asking you this far down the track what that was
10:19:51 30 about because I've got no doubt you don't recall?---No.
10:19:54 31
10:19:54 32 But do you recall in the days after, and I think you've
10:19:57 33 said you do recall having discussions with him about the
10:19:59 34 events over the weekend, that is the burglary?---Yeah, I'm
10:20:04 35 not sure how soon that happened but it was within the
10:20:08 36 following days, yeah.
10:20:09 37
10:20:09 38 Okay?---Yeah.
10:20:10 39
10:20:10 40 What we see there is certainly communication between you
10:20:14 41 and he at 2 o'clock on 29 September, and then further
10:20:17 42 communications on 30 September, do you see that? If you go
10:20:24 43 down yellow to blue?---Yeah, yep.
10:20:26 44
10:20:26 45 You see a minute phone call?---Yes.
10:20:28 46
10:20:28 47 At 10.40. Another phone call at 10.56?---Yep.

10:20:32 1
10:20:32 2 And then if you go further down the page you can see
10:20:36 3 another set of communications, yellow to blue, blue to
10:20:40 4 yellow, et cetera, down the page on 1 October,
10:20:45 5 right?---Yes.
10:20:45 6
10:20:46 7 All right. Now, accepting that those are communications
10:20:56 8 between you and he, would it be fair to say that there
10:20:58 9 would have been discussion about what had occurred on the
10:21:01 10 weekend in those telephone calls?---I think that's entirely
10:21:05 11 reasonable.
10:21:05 12
10:21:05 13 Okay. On the 1st did you know that there were rumours
10:21:14 14 circulating about what Paul might or might not have known
10:21:19 15 about Miechel and his relationship with Miechel?---No -
10:21:24 16 what day are we saying the burglary happened?
10:21:27 17
10:21:28 18 The 27th, the night of the 27th, the Saturday?---Right. So
10:21:31 19 the 1st would have been early the following week.
10:21:33 20
10:21:33 21 Yes?---I don't think by that stage, no.
10:21:36 22
10:21:36 23 Yes, all right. On the 2nd there's evidence, I don't know
10:21:40 24 whether you saw it yesterday, but Mr Dale said that on the
10:21:42 25 2nd, this is before he goes on leave, he had to go down to
10:21:46 26 ESD and he was there all day making a statement,
10:21:49 27 right?---Yep.
10:21:49 28
10:21:52 29 Were you aware of that?---At some stage I became aware of
10:21:56 30 it. I don't know whether I knew it right on that day or
10:21:59 31 later on.
10:22:00 32
10:22:00 33 Yeah, all right. Was it your understanding that Mr Dale
10:22:03 34 was reasonably agitated about what had occurred at
10:22:10 35 ESD?---Yeah, I think that's reasonable.
10:22:11 36
10:22:12 37 If you go over the page you'll see that, at the top of the
10:22:17 38 page you'll see some communications between Dale and you
10:22:20 39 firstly at about eight minutes past five on 2 October,
10:22:26 40 there's a one and a half minute telephone call, do you see
10:22:29 41 that?---Yes.
10:22:30 42
10:22:30 43 Or at least whether it's - in any event there you see
10:22:36 44 another telephone call for a minute at about 17:43,
10:22:41 45 5.43?---Yes.
10:22:42 46
10:22:43 47 Assuming that Mr Dale was in the latter stages of making

10:22:47 1 the statement or down at ESD at about that time, it would
10:22:51 2 be reasonable to say that he would have communicated with
10:22:53 3 you about what had gone on at ESD, would that be fair to
10:22:56 4 say or not?---I don't know that he would have told me at
10:23:02 5 the time.
10:23:02 6
10:23:02 7 Yeah?---I've got a recollection that at one stage he was
10:23:08 8 around that time, he was stuck at work and his wife had to
10:23:13 9 go to work and asked if I could go round and give him a
10:23:17 10 chop out with baby-sitting for maybe an hour or so. That
10:23:22 11 might have been what that was perhaps.
10:23:24 12
10:23:24 13 Did you know - I take it you didn't go to the Crown Casino
10:23:27 14 that night and have drinks with him for any particular
10:23:31 15 reason that you can recall, you didn't go that night, did
10:23:34 16 you?---I've been to the casino with Paul and Nicola before,
10:23:37 17 I don't know that it was that night.
10:23:39 18
10:23:39 19 I'm not suggesting that Nicola was there but do you recall
10:23:44 20 going to the casino on an evening after he'd been down to
10:23:53 21 ESD?---No.
10:23:53 22
10:23:54 23 It appears that he goes off on leave the following day and
10:23:57 24 you say that you were aware that he was on leave, sick
10:24:01 25 leave or whatever, at some stage after the events of the
10:24:05 26 burglary?---Yep.
10:24:06 27
10:24:07 28 And do you know whether there was any discussion between
10:24:10 29 you and he about him being distressed because the bosses,
10:24:14 30 whether it be ESD or senior members of the MDID, had been
10:24:19 31 putting pressure on Paul's underlings?---Yeah, I became
10:24:24 32 aware of that. I just don't know whether it was
10:24:29 33 immediately after or, you know, weeks or however long
10:24:33 34 later.
10:24:33 35
10:24:33 36 Yeah?---But I did become aware of that, yeah.
10:24:36 37
10:24:37 38 You and he had a relatively close relationship and he was a
10:24:41 39 person who would confide in you, would he? Was that the
10:24:46 40 nature of the relationship?---Oh, yeah. I don't know that
10:24:49 41 - I don't think he told me everything but, yeah, yeah, we
10:24:53 42 had a close relationship, yeah.
10:24:54 43
10:24:55 44 If he was upset about something as far as you were
10:24:59 45 concerned as a matter of - assuming all things being equal,
10:25:03 46 he would confide that in you?---Yep.
10:25:05 47

10:25:06 1 Okay. Now did you know at this early stage that Nicola
10:25:17 2 Gobbo, when I say early stage, in the days after the events
10:25:20 3 at Dublin Street, did you know that she was acting for a
10:25:30 4 number of the people who were suspects in that burglary, in
10:25:34 5 that drug operation?---No, I don't think I did.
10:25:36 6
10:25:36 7 When did you find that out, or did you ever find that
10:25:39 8 out?---I think the first I heard of that might have been
10:25:42 9 the day that Paul and Mielche and Hodson were arrested.
10:25:49 10
10:25:49 11 So you say you didn't know prior to 5 December that Gobbo
10:25:54 12 had been involved professionally in this operation?---I
10:25:59 13 don't think I did, no.
10:26:00 14
10:26:01 15 Right, okay. You were aware obviously that she knew Dale;
10:26:13 16 obviously you knew she's a barrister?---Yes.
10:26:15 17
10:26:18 18 You say - and I think you've said in the past that - I
10:26:28 19 think a word, it was put to you in the past that Paul was
10:26:32 20 paranoid about whether or not a statement was going to be
10:26:38 21 made by Terry Hodson against him?---Yes.
10:26:40 22
10:26:42 23 Can I ask you: do you recall whether Paul was concerned
10:26:46 24 about whether Hodson might or might not make a statement
10:26:49 25 against him, in a period leading up to his arrest?---Yeah,
10:26:56 26 look he was concerned about - look, I don't know exactly
10:27:01 27 what it was concerned about, I think - and I don't know
10:27:04 28 whether I've since sort of put all that together in my head
10:27:08 29 that that might have been what he was concerned about or
10:27:10 30 whether he was concerned about other stuff, but, yeah, I
10:27:14 31 think that was probably one of the things that bothered
10:27:17 32 him.
10:27:17 33
10:27:17 34 Yeah. You were aware of that, it was something that he
10:27:20 35 discussed with you?---Yeah.
10:27:21 36
10:27:21 37 Did you have a discussion with him about whether he should
10:27:26 38 get legal advice?---Yeah.
10:27:29 39
10:27:30 40 When do you think that discussion was?---Oh, I can't be any
10:27:40 41 more specific than some time between Grand Final day and
10:27:43 42 when he was arrested but obviously at some stage in there
10:27:47 43 he spoke about that, yes.
10:27:48 44
10:27:49 45 We know and you've said that you yourself got legal advice
10:27:55 46 from Nicola Gobbo because you were concerned about, you
10:27:59 47 say, your exposure having been with Paul Dale at the

10:28:03 1 barbecue on the day before the burglary?---Yes.
10:28:07 2
10:28:07 3 And you've said that before, haven't you?---Yes.
10:28:09 4
10:28:09 5 To I think Mr Fitzgerald, you were asked questions about
10:28:14 6 that back in 2007, I think about on about 20 July?---If
10:28:18 7 that's the date I'd go with that, yep.
10:28:20 8
10:28:21 9 Effectively what you've said is, look, there are about
10:28:23 10 three occasions when you sought legal advice from Nicola
10:28:28 11 Gobbo in that period of time between the burglary and
10:28:32 12 Paul's arrest - I withdraw that. Three times that you
10:28:37 13 sought legal advice in that general period?---Two or three,
10:28:40 14 yeah.
10:28:40 15
10:28:40 16 Two or three, that's right?---Yeah.
10:28:42 17
10:28:42 18 Do you say that was prior to Dale's arrest, those occasions
10:28:46 19 that you sought legal advice?---Yes.
10:28:47 20
10:28:48 21 I think you've said that the legal advice that you sought
10:28:50 22 was in relation to your potential exposure?---Yeah, and my
10:28:54 23 obligations were I to be approached about maybe making a
10:28:59 24 statement or what I - yeah, that sort of thing.
10:29:01 25
10:29:01 26 And on one of the occasions that you went to get legal
10:29:04 27 advice from Nicola Gobbo you went with Dale and he got
10:29:12 28 legal advice as well?---Yes.
10:29:13 29
10:29:14 30 That's what you've said in the past?---Correct.
10:29:16 31
10:29:16 32 Do you maintain that today?---Yes.
10:29:18 33
10:29:19 34 Again, you would say that that was between the burglary and
10:29:24 35 the arrest on 5 December?---Yes.
10:29:28 36
10:29:29 37 I think you've been asked whether it occurred in Dale's
10:29:33 38 chambers, sorry, in Gobbo's chambers?---Yeah.
10:29:36 39
10:29:36 40 And you've said, look, as far as Dale's concerned your
10:29:41 41 recollection is that he didn't go into Gobbo's chambers for
10:29:44 42 legal advice?---Yes.
10:29:45 43
10:29:45 44 That's your recollection, isn't it?---Yes.
10:29:47 45
10:29:47 46 You did, you say?---I believe - I've been to Nicola's
10:29:51 47 chambers in the past.

10:29:52 1
10:29:52 2 Yeah?---I can't imagine why else it would have been other
10:30:00 3 than for legal advice, so yeah.
10:30:01 4
10:30:02 5 The occasion that you and Paul Dale went to see Nicola
10:30:07 6 Gobbo for legal advice, was that after the first time that
10:30:10 7 you sought legal advice from her?---I'm not certain about
10:30:21 8 that.
10:30:22 9
10:30:22 10 Right. It could have been before, it could have been
10:30:27 11 after?---Yes.
10:30:28 12
10:30:32 13 Is it your recollection, again I think you've been asked
10:30:36 14 questions about this in the past, that you and Dale went
10:30:40 15 together into the city to meet Ms Gobbo on the occasion
10:30:43 16 that both of you got legal advice?---Yes.
10:30:45 17
10:30:47 18 I assume you would have had discussions with Mr Dale about
10:30:51 19 why, the both of the reasons that you were both going in to
10:30:57 20 see Ms Gobbo for legal advice?---I think it was more Paul
10:31:00 21 was going and I just decided I'd tag along more than
10:31:04 22 anything.
10:31:05 23
10:31:05 24 Well, were you wanting to get legal advice?---Yes.
10:31:08 25
10:31:09 26 Or simply tagging along?---No, no, no, I wanted some legal
10:31:12 27 advice but I don't know that I necessarily prearranged that
10:31:14 28 with her.
10:31:15 29
10:31:19 30 Right?---Yeah.
10:31:20 31
10:31:20 32 This was in a café, is that your recollection?---Yes.
10:31:23 33
10:31:24 34 Is it any particular café that you can recall this
10:31:27 35 occurred?---It was somewhere near her chambers.
10:31:28 36
10:31:30 37 Yes?---Near the courts, but no.
10:31:33 38
10:31:33 39 Do you know of any of the cafés near her chambers, what
10:31:36 40 they were called?---No, but I reckon there might be one
10:31:42 41 nearly right underneath where she used to have her
10:31:44 42 chambers.
10:31:44 43
10:31:45 44 That was a place called Wheat I think?---The name doesn't
10:31:49 45 mean anything.
10:31:49 46
10:31:50 47 Another one that was called Dominos which was in the

10:31:55 1 vicinity of the barristers' chambers or at least on the
10:31:57 2 other side of - - - ?---I reckon I know where Domino's is,
10:32:01 3 that's out the back of the one in Lonsdale Street, isn't
10:32:01 4 it?
10:32:01 5
6 Out the back, yeah?---Yeah.
7
8 Was it that one or not?---No, I don't think it was that
9 one.
10
11 Don't think so?---No.
12
10:32:02 13 More likely to have been another one, perhaps
10:32:06 14 Wheat?---Could have been.
10:32:08 15
10:32:08 16 Were you present when Mr Dale got his legal advice?---No.
10:32:11 17
10:32:13 18 Where were you?---I reckon I went and made a couple of
10:32:16 19 phone calls or - I wasn't part of, it didn't interest me in
10:32:22 20 what they were talking about.
10:32:24 21
10:32:25 22 Right. You say you absented yourself from the
10:32:28 23 discussion?---Yep.
10:32:28 24
10:32:28 25 Did you see Ms Gobbo providing any documents or Dale
10:32:34 26 providing any documents to Ms Gobbo? Were you within sight
10:32:36 27 of what was going on or not?---I probably would have been
10:32:39 28 within sight but I don't remember any of that.
10:32:41 29
10:32:41 30 Yeah, all right. Okay, all right. You're not able to put
10:32:49 31 a date on this save that you say it was at some stage
10:32:53 32 between those two book-ends?---Yes.
10:32:59 33
10:33:01 34 Was this at a time when Mr Dale was concerned about his
10:33:03 35 position?---Yeah, I think that's reasonable.
10:33:05 36
10:33:05 37 As far as you were aware was it in relation to the events
10:33:08 38 that had occurred on the weekend, the Dublin Street
10:33:14 39 burglary, or did it relate to something else?---Look, I'm
10:33:19 40 not certain. My impression is it was probably more the
10:33:24 41 Dublin Street matter.
10:33:25 42
10:33:25 43 All right, okay. If you have a look at that document there
10:33:33 44 in front of you. Perhaps before I go there. Were you
10:33:41 45 aware that Mr Dale met with Ms Gobbo at a hotel in South
10:33:47 46 Melbourne, O'Connell's Hotel, at around the time that it
10:33:51 47 occurred?---No.

10:33:52 1
10:33:52 2 Did he tell you that he was going to meet her?---No, I
10:33:55 3 don't think he did. I don't remember it.
10:33:56 4
10:33:56 5 You don't remember it, all right. Would that have been
10:34:00 6 unusual if that had occurred, as far as you were occurred?
10:34:08 7 Were you aware that Mr Dale had been out with Ms Gobbo
10:34:11 8 previously one-on-one?---I don't think I was.
10:34:14 9
10:34:15 10 Yeah, all right. Do you recall having any discussions with
10:34:19 11 Ms Gobbo after the Dublin Street burglary, aside from your
10:34:26 12 attendance in the vicinity of her chambers on a couple of
10:34:29 13 occasions or three occasions, do you recall having any
10:34:32 14 discussions with her about the events which had occurred -
10:34:39 15 I'm talking about over the telephone - about the events
10:34:41 16 which had occurred at Dublin Street?---No.
10:34:44 17
10:34:45 18 You think you didn't?---I don't remember that I did.
10:34:47 19
10:34:49 20 All right, okay. There's evidence that on or about 5
10:35:04 21 November Ms Gobbo spoke to a Mr Hodson, Terry Hodson, met
10:35:23 22 with her in the afternoon of 5 November and as a
10:35:26 23 consequence of that there was some suggestion that she
10:35:31 24 would attempt to get a message through to Paul Dale through
10:35:36 25 a third party to instruct him to meet Hodson, right? Are
10:35:43 26 you aware of that suggestion? Have you ever heard that
10:35:47 27 before?---I think similar things have been perhaps put to
10:35:52 28 me. Maybe not in as specific terms as you just have but
10:35:57 29 yeah, yep.
10:35:57 30
10:35:59 31 You're aware that it's been suggested you were in effect an
10:36:02 32 intermediary - - - ?---Yes.
33
10:36:02 34 - - - in some sort of transaction as between either Gobbo
10:36:05 35 and Dale?---Yep.
10:36:07 36
10:36:07 37 Or Dale and Hodson, you're aware of those allegations,
10:36:11 38 aren't you?---Yep.
10:36:11 39
10:36:12 40 They were put to you in the past?---Yeah. As I say, I
10:36:15 41 don't think in quite as specific terms as you have, but
10:36:19 42 yeah.
10:36:19 43
10:36:22 44 There is evidence that there was that meeting which
10:36:26 45 occurred between 3.15 and 4.15 pm on 5 November and, again,
10:36:32 46 Gobbo - the evidence is that Gobbo stated she would get a
10:36:36 47 message to Dale through a third party to instruct him to

10:36:38 1 meet Hodson?---Yep.
10:36:39 2
10:36:40 3 Right. If you go to p.14 of 32. You'll see that you make
10:36:57 4 a telephone call at 4.31 and it's of one minute duration.
10:37:02 5 Do you see that? It's about ten lines down.
10:37:04 6
10:37:04 7 COMMISSIONER: What date, Mr Winneke?
10:37:06 8
10:37:07 9 MR WINNEKE: This is on 5 November.
10:37:08 10
10:37:08 11 COMMISSIONER: Thank you.
10:37:08 12
10:37:10 13 MR WINNEKE: Page 14 of 32. This is - - - ?---Yeah, I've
10:37:14 14 got it.
10:37:14 15
10:37:14 16 You see that?---Yes.
10:37:15 17
10:37:16 18 It appears that that's the case, doesn't it, assuming those
10:37:20 19 records are correct?---Yellow to blue.
10:37:23 20
10:37:23 21 Yellow to blue, one minute?---Yes.
10:37:25 22
10:37:25 23 It appears, and the evidence seems to suggest, that you
10:37:27 24 leave a voice message on his phone, do you recall
10:37:30 25 that?---No.
10:37:30 26
10:37:31 27 All right. It appears, if you look at the immediate call
10:37:35 28 below that at 16:57, so about a number of minutes later, 26
10:37:41 29 minutes later, it seems that Dale retrieves the message.
10:37:46 30 That certainly is suggested in that record, isn't
10:37:50 31 it?---Yes.
10:37:50 32
10:37:51 33 Then there's another - a call that he makes to you at about
10:37:55 34 13 minutes past five and that's a minute telephone call, do
10:38:00 35 you see that?---I do.
10:38:01 36
10:38:01 37 Right. At that stage was this at a period of time when to
10:38:08 38 your understanding Paul was concerned that Hodson may or
10:38:12 39 may not be making a statement in relation to Dale's
10:38:18 40 involvement or otherwise?---It was probably getting around
10:38:24 41 that time. So we're talking November, I think that's -
10:38:29 42 we're now getting to perhaps within a month of when he was
10:38:32 43 arrested.
10:38:33 44
10:38:33 45 Yes?---I think we're probably approaching that time frame.
10:38:40 46
10:38:43 47 What I want to suggest is that at about 4.30 you left a

10:38:47 1 message to this effect, "It's Argall here at 4.30. Give me
10:38:54 2 a call back", because you have a message for him. "If you
10:38:58 3 call back before you see him tonight you might be able to
10:39:03 4 return the call as the message is supposedly urgent and to
10:39:06 5 ring from a good phone", right? That's an approximation,
10:39:15 6 that's not the actual transcript of the call. I'll read it
10:39:18 7 out again. "It's Argall here at 4.30 and to give him a
10:39:22 8 call back as he has a message for him. If he calls back
10:39:25 9 before he sees him tonight he might be able to return the
10:39:30 10 call as the message is supposedly urgent and to ring from a
10:39:36 11 good phone", right?---Yep.

10:39:37 12
10:39:38 13 Perhaps if we put that up so Mr Argall can see it,
10:39:42 14 Commissioner. It's RCMP.0016.0002.0009 at p.205. I think
10:39:57 15 - can that go on that - we've seen it. We'll just have a
10:40:03 16 look at it. This is a summary which has been put together
10:40:12 17 by prosecutors of events which occurred. Let's just assume
10:40:15 18 that the summary is accurate for the moment. You'll see
10:40:18 19 that there's three dot points at the top of the page.

10:40:21 20
10:40:21 21 COMMISSIONER: That's Exhibit 232, the record.

10:40:25 22
10:40:25 23 MR WINNEKE: Yes. Those three dot points relate to a
10:40:35 24 meeting which occurred on 5 November. Just read that.
10:40:39 25 Read the previous paragraph and the previous - - -
10:40:43 26 ?---Sorry, where's that?

10:40:44 27
10:40:45 28 Read the last paragraph on the previous page?---Righto.
10:41:24 29 Yep.

10:41:24 30
10:41:25 31 If that's accepted it appears that there's the meeting and
10:41:28 32 that Gobbo is saying to Hodson that she was going to get a
10:41:33 33 message to Dale through a third party to instruct him to
10:41:35 34 meet Hodson. Hodson believed that he would meet Dale on
10:41:38 35 Thursday or Friday and it would take place at Gobbo's
10:41:41 36 office, right?---Yep.

10:41:42 37
10:41:42 38 In any event, the third party appears to be you?---Yes.

10:41:45 39
10:41:45 40 Because it seems that Gobbo calls you and then you leave a
10:41:52 41 message on Dale's phone, do you accept that?---Yes.

10:41:54 42
10:41:54 43 And the message is - now going to the call record, just
10:41:58 44 have a look at the hard copy, there doesn't appear to be
10:42:02 45 any evidence of communication between Gobbo and you, does
10:42:07 46 there? If we accept that you call Dale and leave the
10:42:15 47 message at 4.31, do you see that?---Yep.

10:42:19 1
10:42:19 2 Looking above it, there doesn't appear to be any, certainly
10:42:24 3 as far as telephone records are concerned, any evidence of
10:42:26 4 Gobbo calling you?---No, so that'd be - you're looking for
10:42:32 5 a pink to yellow?
10:42:33 6
10:42:34 7 Pink to yellow, there doesn't appear to be anything?---No.
10:42:37 8
10:42:38 9 But the evidence suggests that there was a communication
10:42:41 10 because at 4.30 you leave this message on Dale's mobile
10:42:46 11 phone?---Yep.
10:42:46 12
10:42:47 13 Do you recall getting a message from Nicola Gobbo about
10:42:49 14 that which led to you leaving the message?---No, I don't.
10:42:52 15
10:42:52 16 You accept that you did leave that message on Dale's
10:42:55 17 phone?---I don't remember it but I have no reason to
10:42:59 18 dispute the data.
10:43:01 19
10:43:01 20 All right. If you continue reading. So you have him -
10:43:12 21 you'll see there that investigators have a particular view,
10:43:16 22 they believe that Argall is the third party used by Gobbo
10:43:20 23 to get in contact with Dale and that "a good phone" was a
10:43:28 24 code used to describe a covert phone that could not be
10:43:29 25 scrutinised by telephone intercepts. Is that correct, that
10:43:31 26 that's what you meant when - assuming the transcript is
10:43:33 27 right, that you used that expression "good phone", would
10:43:37 28 the investigators be correct to assume that that's what you
10:43:40 29 were saying?---Yeah, I think that's reasonable.
10:43:48 30
10:43:48 31 Did you know whether Dale had a phone or a covert phone or
10:43:51 32 a phone that wasn't in his name at that stage or not?---No.
10:43:55 33
10:43:57 34 Right, okay. Do you believe that, as far as your
10:44:05 35 recollection is concerned, that Gobbo mentioned to you that
10:44:08 36 she wanted Dale to get in touch with Hodson?---I don't ever
10:44:12 37 remember her saying that.
10:44:13 38
10:44:15 39 Judging from your message you didn't say anything about
10:44:18 40 Hodson?---No, it doesn't look like it.
10:44:21 41
10:44:22 42 Effectively what you were doing is telling Dale that there
10:44:26 43 was a supposedly urgent message that he needed to get from
10:44:31 44 Gobbo and he should ring her on a good phone, a phone that
10:44:35 45 isn't going to be intercepted?---Pretty much.
10:44:37 46
10:44:38 47 That appears to be the gist of it, doesn't it?---Yep, yep.

10:44:40 1
10:44:41 2 Did you know at that stage or was it your belief that Dale
10:44:44 3 had got legal advice from Gobbo prior to that or are you
10:44:48 4 simply not in a position to say?---I would be fairly
10:44:51 5 confident to say by that stage he had.
10:44:54 6
10:44:54 7 He had?---Yes.
10:44:54 8
10:44:55 9 Why do you say that?---Just given the time frame between
10:45:00 10 when the burglary happened and when the arrest happened.
10:45:06 11
10:45:06 12 Yes?---I think, as I say, we're talking here - I can't
10:45:13 13 remember when the arrest happened but I reckon they were
10:45:15 14 early December, so we're probably only talking a month out
10:45:21 15 from the arrest.
10:45:21 16
10:45:22 17 Yeah, a month before?---Yeah. I'm pretty certain the
10:45:24 18 advice he'd been getting was prior to that.
10:45:26 19
10:45:27 20 Did he ever tell you what the advice was that he got?---No.
10:45:31 21
10:45:32 22 Or what he was seeking, what advice he was seeking?---No.
10:45:34 23
10:45:34 24 You say you were of the view at that stage that he and
10:45:37 25 Gobbo were seeing each other in a professional way?---On
10:45:41 26 occasions, yeah.
10:45:42 27
10:45:48 28 Do you have any more detailed understanding than
10:45:55 29 that?---No, not if we're talking specifically at that time
10:45:59 30 period.
10:45:59 31
10:46:00 32 Yeah?---But he had said to me that he was going to get
10:46:05 33 legal advice from her, so it was self-evident that he was
10:46:09 34 seeing her in a professional capacity.
10:46:11 35
10:46:13 36 Yeah, all right. Do you know whether or not he'd been out
10:46:18 37 with her drinking at that hotel in the period, in the weeks
10:46:26 38 before this?---No, I don't know that.
10:46:28 39
10:46:31 40 Then if you go back to the call charge record it appears
10:46:35 41 that Dale contacts you at 13 minutes past five and there's
10:46:44 42 a minute telephone call, do you see that?---Yes.
10:46:46 43
10:46:47 44 It seems to follow that Gobbo calls you, you pass on the
10:46:52 45 message by leaving it on his phone at 4.30. He gets the
10:46:56 46 message at 4.57, calls someone else at 7.12 and then calls
10:47:03 47 you - sorry, 5.12, or 17:12, then calls you at 17:13, and

10:47:12 1 you have a discussion. That appears to be the case,
10:47:14 2 doesn't it?---It does.
10:47:15 3
10:47:15 4 Then if you look at the document on the screen in front of
10:47:18 5 you, it appears that Dale's phone's been monitored, Dale
10:47:25 6 contacts you, and the first thing he says is that he's
10:47:28 7 calling from his own phone, do you see that?---Where are we
10:47:33 8 looking, sorry?
10:47:34 9
10:47:34 10 Just if you - call 983?---Yep.
10:47:40 11
10:47:40 12 Just highlight that, call 983?---Yeah, I've got it now,
10:47:44 13 sorry.
10:47:45 14
10:47:46 15 That's it, the next one there. What he says to you first
10:47:50 16 of all is he's calling from his own phone and you'll see -
10:47:53 17 well, the suggestion, that it might be suggested that
10:47:56 18 that's to put you on notice that you perhaps ought be
10:48:01 19 discreet because it may well be someone's listening, do you
10:48:04 20 accept that?---Yes.
10:48:05 21
10:48:06 22 That may well be an inference that could be drawn?---Yep.
10:48:09 23
10:48:09 24 Is that right, that you were having discussions with him on
10:48:12 25 the assumption that his phone might be off or being
10:48:14 26 listened to?---I don't specifically recall but that's not
10:48:17 27 an unreasonable inference from the transcript.
10:48:20 28
10:48:25 29 He having told you that you said he just got a phone call
10:48:29 30 from a person that needed to pass on a message to him.
10:48:33 31 Firstly - perhaps I'll go on. "Argall didn't know why they
10:48:43 32 needed to go through him. As always with this person it
10:48:47 33 was a matter of national security." What do you mean by
10:48:51 34 that?---I think that's my sarcastic way of saying that as
10:48:56 35 with Nicola there was a degree of urgency about it but
10:48:59 36 often, as was the case, it might have turned out to be
10:49:04 37 nothing.
10:49:04 38
10:49:04 39 Right?---She would get excited about some things and that
10:49:08 40 was sort of my sarcastic way, and I think Paul and I often
10:49:12 41 referred to things as being a matter of national security.
10:49:15 42
10:49:15 43 Effectively - yeah, sorry, go on?---Yeah, yeah. So things
10:49:19 44 would have been pumped up or on the surface appeared to be
10:49:22 45 a matter of national security. When you got there it was a
10:49:26 46 cat stuck in a tree.
10:49:27 47

10:49:27 1 Right. Drama queen, that sort of thing?---Your words but I
10:49:31 2 won't dispute it.
10:49:32 3
10:49:32 4 In any event, it appears that you both know her pretty well
10:49:35 5 from that comment, it seems to be the case, doesn't
10:49:38 6 it?---Yes.
10:49:38 7
10:49:39 8 You accept that at that stage you both knew her pretty
10:49:42 9 well?---Yes.
10:49:42 10
10:49:45 11 Did you know what the message was, aside from Dale having
10:49:49 12 to contact her?---I don't remember the call at all but
10:49:54 13 looking at this it seems I didn't.
10:49:56 14
10:49:57 15 Well certainly you didn't say on that telephone call what
10:50:01 16 the message was because - on one view it might be said you
10:50:05 17 didn't pass on the full message because Dale says he's
10:50:09 18 calling from his own phone, that might be one
10:50:12 19 inference?---Yes.
10:50:12 20
10:50:12 21 Another inference might be she never told you what the
10:50:15 22 message was?---Yes.
10:50:17 23
10:50:17 24 What do you think it is?---I don't think I knew what the
10:50:19 25 message was.
10:50:20 26
10:50:21 27 Did you know that there was at least some suggestion coming
10:50:29 28 from either Gobbo or Dale that there was a desire for Dale
10:50:32 29 to meet Hodson? Did you know anything about that?---I
10:50:39 30 don't remember that proposition or knowing anything about
10:50:40 31 that.
10:50:41 32
10:50:41 33 Right. Do you say that as far as you were concerned that
10:50:44 34 was never raised with you?---Not with me, no.
10:50:48 35
10:50:51 36 Dale said that he would speak to you when he saw you and
10:50:57 37 judging from the earlier call it appears that you and he
10:51:00 38 were going to meet that night?---Yep.
10:51:01 39
10:51:03 40 I'm going to ask you, do you recall what that was all
10:51:06 41 about, what the meeting was about?---No. We would often
10:51:11 42 catch up at each other's houses or go for a drink. We were
10:51:17 43 friends.
10:51:17 44
10:51:18 45 Yes?---Who would just socialise together. I don't know
10:51:22 46 what we were doing but, yeah, it was - yeah.
10:51:27 47

10:51:29 1 I take it you are aware that at around that time, you were
10:51:33 2 aware that Dale was concerned about whether Hodson might
10:51:36 3 make a statement about him?---Yeah.
10:51:39 4
10:51:39 5 All right. Did you have a discussion with Dale that night
10:51:42 6 about whether Hodson was going to make a statement or not?
10:51:46 7 Do you think you might have had that discussion?---Oh, we
10:51:50 8 spoke generally about it at some point. I don't remember
10:51:53 9 whether it was around this time or when that was.
10:51:56 10
10:51:57 11 Do you say you didn't know at this stage that Gobbo was
10:52:00 12 acting for people who had been arrested shortly after the
10:52:04 13 Dublin Street burglary?---Yeah, as I say, I think I only
10:52:08 14 found that out when they were all arrested in December.
10:52:11 15
10:52:11 16 Do you say that as far as you were aware no one ever told
10:52:14 17 you that Dale was - sorry, that Gobbo was acting for
10:52:18 18 Hodson, or at least was advising Hodson?---I don't believe
10:52:21 19 I knew that, no.
10:52:22 20
10:52:22 21 Did you know Peter De Santo?---I knew who he was but I
10:52:25 22 don't know him.
10:52:25 23
10:52:26 24 Did you have any discussions with Dale about Peter De Santo
10:52:30 25 around this time, these transactions concerning
10:52:33 26 Hodson?---No, I don't think so.
10:52:33 27
10:52:34 28 You're sure about that?---As sure as I can be.
10:52:38 29
10:52:38 30 Right, okay. In any event, you say that she had something
10:52:44 31 to say to you but did not want to ring you. For whatever
10:52:50 32 reason she rang you?---Yes.
10:52:51 33
10:52:52 34 At face value you're saying, "I don't know what it's about,
10:52:57 35 as always with this woman it's a matter of national
10:53:00 36 security. But she wants you to speak to her. For some
10:53:02 37 reason she calls me, I don't know what it's all about, can
10:53:06 38 you contact her"?---Yeah.
10:53:07 39
10:53:07 40 At face value that's what it appears to be?---Yes.
10:53:13 41
10:53:14 42 Your wither in on the knowledge or you're not?---Yes.
43
10:53:14 44 As to these telephone calls, right?---Yes.
10:53:16 45
10:53:18 46 As to what the message was, whether it was to get Dale to
10:53:21 47 contact Hodson. It might be suggested that when you meet

10:53:24 1 Dale later on that night you might have been keen to find
10:53:28 2 out what it was all about?---I didn't need or want to know
10:53:35 3 a whole lot of the detail of what was going on. I was
10:53:40 4 happy to provide a bit of support to Paul and that sort of
10:53:45 5 thing, but the detail of what he was discussing with Nicola
10:53:49 6 and the finer detail, yeah, it was just better if I didn't
10:53:55 7 know sometimes.
10:53:56 8
10:53:56 9 Right. Do you think you sought legal advice subsequent to
10:54:02 10 5 November from Ms Gobbo?---I can't say, I'm sorry.
10:54:10 11
10:54:10 12 Right?---Yeah, I don't know.
10:54:11 13
10:54:11 14 If you had sought legal advice from her would you have
10:54:14 15 asked her whether she had any knowledge or involvement in
10:54:19 16 the matters which were circulating around Dublin
10:54:29 17 Street?---I don't know that I would have specifically asked
10:54:30 18 her that.
10:54:31 19
10:54:31 20 This was a reasonably high profile sort of series of
10:54:35 21 events, wasn't it, the Dublin Street burglary?---Yes.
10:54:38 22
10:54:38 23 The arrest of Miehchel, a Drug Squad member?---Yes.
10:54:40 24
10:54:40 25 Arrest of Hodson, yes?---Yeah.
10:54:42 26
10:54:43 27 You knew that she was a barrister who appeared for
10:54:46 28 relatively high profile people charged with drug
10:54:50 29 trafficking?---Yes.
10:54:50 30
10:54:51 31 Do you say that you wouldn't have spoken to Gobbo about
10:54:54 32 what she knew about these events?---Look, I'm not saying we
10:55:00 33 didn't discuss it. I don't remember talking about it or
10:55:03 34 specifically remember it.
10:55:04 35
10:55:04 36 Yeah?---It may have come up but I don't remember it. I
10:55:10 37 don't remember knowing that she was representing or
10:55:12 38 advising any of them, as I say, until Hodson and the rest
10:55:17 39 of them were arrested.
10:55:18 40
10:55:18 41 Yeah, all right, okay. If we look through those records we
10:55:24 42 can see that, assuming they're correct, that there are a
10:55:28 43 number of communications between you and Dale throughout
10:55:32 44 the period of time, between those book-ends, as I've
10:55:39 45 described them previously. You and she, you and Ms Gobbo
10:55:46 46 communicate at least by text message, if you go to p.17 of
10:55:50 47 that document, on 21 November. Do you see that sort of

10:56:02 1 three quarters of the way down the page?---Oh yeah. Yep.
10:56:07 2
10:56:08 3 She's sending text messages to you?---Yes.
10:56:10 4
10:56:19 5 Again I'm not suggesting, I'm not asking if you know what
10:56:22 6 those are about, but can you hazard a guess as to what
10:56:28 7 those discussions were about?---No. It doesn't look like
10:56:32 8 I'm replying, or is that not captured in it? I don't know.
10:56:36 9
10:56:36 10 It doesn't appear that you're replying, does it?---No.
10:56:39 11
10:56:39 12 There are SMSes being fired off aplenty but you don't seem
10:56:44 13 to be responding to them for whatever reason?---Yep.
10:56:48 14
10:56:48 15 All right. If we go to 1 December, if we go to
10:57:01 16 p.20?---Yes.
10:57:01 17
10:57:02 18 Just before halfway down the page you see that there's a
10:57:06 19 Gobbo call to Dale, pink to blue?---Yes.
10:57:09 20
10:57:10 21 Blue to pink. Sorry, SMSes, et cetera?---Yep.
10:57:14 22
10:57:15 23 And then you're speaking to Dale. There seems to be a
10:57:19 24 couple of conversations at 4.44 and 4.47, you to Dale and
10:57:27 25 Dale to you?---Yes.
10:57:28 26
10:57:32 27 Commissioner, I don't have any objection to putting this on
10:57:34 28 the screen. I notice my learned friends don't have it. It
10:57:38 29 would be helpful.
10:57:39 30
10:57:40 31 COMMISSIONER: Yes, if that can come up, please. Exhibit
10:57:44 32 232.
10:57:46 33
10:57:46 34 MR HANNEBERY : The problem is the phone numbers. As long
10:57:48 35 as that's for the room.
10:57:49 36
10:57:50 37 COMMISSIONER: It's not being streamed. It's only coming
10:57:52 38 up for the screens in here.
10:57:55 39
10:57:56 40 MR HANNEBERY: I think the other sensitivity was anyone
10:57:58 41 publishing those number who find out that - - -
10:58:00 42
10:58:00 43 MR PURCELL: Certainly, Commissioner, from Mr Argall's
10:58:03 44 perspective, he's concerned about the fact that he's
10:58:04 45 retained that number up until the present day.
10:58:08 46
10:58:08 47 COMMISSIONER: I see.

10:58:08 1
10:58:09 2 MR PURCELL: So he was certainly seeking that if it
10:58:12 3 potentially put up in the public domain that be redacted.
10:58:12 4
10:58:14 5 MR WINNEKE: I'm not suggesting it ought to go in the
10:58:14 6 public domain at all, but I just think - - -
7
10:58:15 8 COMMISSIONER: It's not going into the public domain, it's
10:58:15 9 only being shown in the courtroom.
10:58:17 10
10:58:18 11 MR PURCELL: No I understand that, but on the website or
10:58:18 12 anything like that. Thank you, Commissioner.
10:58:18 13
10:58:19 14 COMMISSIONER: No one's copying it. Thank you. I
10:58:20 15 understand the concern.
10:58:21 16
10:58:22 17 MR PURCELL: Yes, thank you.
10:58:26 18
10:58:26 19 MR WINNEKE: Looking at 1 December, it's about four days
10:58:29 20 prior to the arrest. There seems to be communications from
10:58:32 21 about 16:39 through to the last one, 21:11, where Gobbo
10:58:39 22 calls you and it appears - sorry, leaves a text message on
10:58:43 23 your phone. Do you see that?---Yep.
10:58:47 24
10:58:48 25 2 December it appears that you call Gobbo and that's a very
10:58:53 26 short telephone call, either - it might be a call or it
10:58:56 27 might not be a call, on p.20?---Yes, I see it.
10:59:01 28
10:59:02 29 Again, do you think - and then further text messages from
10:59:07 30 Gobbo to you down the bottom of p.20?---Yes.
10:59:10 31
10:59:12 32 Pink to yellow. Are you able to shed any light on those,
10:59:20 33 what those would have been about?---No. What day of the
10:59:25 34 week is it, do you know?
10:59:26 35
10:59:27 36 That's a good question. No doubt someone will be able to
10:59:30 37 tell us but I can't tell you?---Yeah, no.
10:59:33 38
10:59:34 39 We'll find out if that helps. We'll find out in two
10:59:39 40 seconds?---No, it doesn't.
10:59:42 41
10:59:43 42 Tuesday 2 December?---Okay.
10:59:45 43
10:59:46 44 Monday 1 December?---Right, yep.
10:59:48 45
10:59:49 46 Those calls about halfway down the page or just before,
10:59:53 47 those communications?---Yeah, look, I can't even remember

10:59:58 1 whether I was at work or what I was doing on those days,
11:00:00 2 so.
11:00:01 3
11:00:01 4 It does appear that there has been a significant degree of
11:00:05 5 communication between you and Dale, occasional
11:00:13 6 communications between you and Gobbo?---M'mm.
11:00:15 7
11:00:16 8 In the period of time. You would accept there's a greater
11:00:21 9 degree of communication than would otherwise be the case
11:00:25 10 between Gobbo and you, for example, and from your knowledge
11:00:28 11 - perhaps I'll withdraw that - certainly Gobbo and you,
11:00:30 12 would that be - - - ?---Yes.
11:00:31 13
11:00:32 14 You think it concerns the events which were swirling around
11:00:37 15 Dublin Street?---I think that's reasonable.
11:00:38 16
11:00:43 17 What do you say as to the proposition that it was being
11:00:48 18 suggested by Ms Gobbo that Paul Dale get into contact with
11:00:56 19 Terry Hodson? Sitting here in the box now do you know
11:00:58 20 anything about that or did you know anything about that at
11:01:01 21 the time?---No, I know since that there's been those
11:01:04 22 suggestions but I didn't know about it at the time.
11:01:07 23
11:01:07 24 Yes, all right. You say that you had nothing to do with
11:01:11 25 that save for that message that you passed on?---That's
11:01:15 26 right.
11:01:15 27
11:01:16 28 Right, okay. On 5 December it appears that Paul Dale's
11:01:23 29 arrested. If we can move down to p.21. You'll see that
11:01:33 30 there's a three and a half minute call between Gobbo and
11:01:37 31 you on 5 December at 12 minutes past eight in the morning,
11:01:40 32 do you see that? If we can just put a box around
11:01:47 33 that?---Yep, got it.
11:01:48 34
11:01:48 35 Is it the case that when Mr Dale was arrested you in effect
11:01:55 36 became involved to do what you could to provide him some
11:01:58 37 support or assistance; is that right?---Yeah, and his
11:02:01 38 family.
11:02:01 39
11:02:01 40 And his family?---Just help them navigate the process as
11:02:05 41 much as anything.
11:02:06 42
11:02:07 43 Do you understand that Mrs Dale was put into contact and
11:02:14 44 spoke to Nicola Gobbo?---Are you talking about Paul's wife
11:02:17 45 or his mother?
11:02:18 46
11:02:19 47 I apologise. Didi, his wife?---Yeah, I think that did

11:02:24 1 happen. I can't remember when but, yeah, I think they did
11:02:27 2 speak.
11:02:27 3
11:02:27 4 And what role did you have in assisting Paul Dale at the
11:02:31 5 time that he was arrested?---I can't remember how I first
11:02:38 6 became aware of it. I reckon it might have been his wife
11:02:42 7 called me in the morning.
11:02:44 8
11:02:44 9 Right. In any event, it appears that you've spoken to
11:02:52 10 Ms Gobbo about it for about three and a half minutes at
11:02:55 11 about 12 minutes past eight?---Yeah, I don't remember doing
11:02:59 12 that but I don't dispute it.
11:03:01 13
11:03:01 14 You call her, don't you?---It looks like it.
11:03:04 15
11:03:04 16 So that would be, I assume, subsequent to you being
11:03:07 17 contacted by Paul's wife, would that be fair to
11:03:11 18 say?---That'd make sense.
11:03:13 19
11:03:13 20 So she contacts you and you contact Ms Gobbo?---Yep.
11:03:18 21
11:03:18 22 And have a discussion with her?---It looks like it, yeah.
11:03:21 23
11:03:21 24 It appears to be so?---Yes.
11:03:23 25
11:03:23 26 Why would have you contacted Ms Gobbo?---I would assume
11:03:26 27 because I knew that she'd previously been giving Paul legal
11:03:31 28 advice and that she ought to know.
11:03:33 29
11:03:33 30 Yeah, all right. Do you recall whether that was the gist
11:03:37 31 of that discussion, that is Paul's arrest, at about 12
11:03:42 32 minutes past eight?---I can't think of any other reason I'd
11:03:46 33 be ringing her at 8 o'clock in the morning on the day Paul
11:03:49 34 was arrested.
11:03:50 35
11:03:50 36 Okay. So it would be, you think, in relation to you being
11:03:53 37 told that Paul had been arrested?---Yes.
11:03:54 38
11:03:55 39 Okay.
11:03:56 40
11:03:56 41 MR HANNEBERY: Sorry, Commissioner, I'm trying to find a
11:04:02 42 good moment to interrupt. I notice that this screen with
43 all the phone numbers on it, including a number of numbers
11:04:07 44 that aren't colour coded has been up for quite a while now.
11:04:09 45 I know there are a lot of people in court beyond simply the
11:04:12 46 practitioners. I am conscious to ask for an order there be
11:04:19 47 a non-publication order making sure those numbers aren't

1 written down and used in some way, given that there's a
11:04:23 2 number of phone numbers there that clearly have nothing to
11:04:24 3 do with proceedings. For example, they're numbers that
11:04:28 4 Ms Gobbo clearly called that might provoke some interest
11:04:31 5 depending on who's looking at them.
11:04:31 6
11:04:32 7 COMMISSIONER: This document was supposed to get redacted
11:04:34 8 overnight, wasn't it?
11:04:42 9
11:04:42 10 MR HANNEBERY: Yes, it was.
11:04:43 11
11:04:43 12 COMMISSIONER: It was supposed to be redacted overnight.
11:04:47 13 In any case, well now - - -
11:04:49 14
11:04:50 15 MR WINNEKE: Commissioner, I'm content for it come down off
11:04:52 16 the screen. Everyone's seen it.
11:04:56 17
11:04:56 18 MR HANNEBERY: I'm just conscious that anyone could have
11:04:59 19 written down these numbers.
11:05:00 20
11:05:00 21 COMMISSIONER: What ever you want. Do you want it taken
11:05:02 22 down from the screen?
11:05:03 23
11:05:04 24 MR WINNEKE: So long as Mr Argall can see it. Unless
25 anyone's desperate to have it up I'm content for it to be
11:05:07 26 on - - -
11:05:07 27
11:05:08 28 COMMISSIONER: All right, we'll take it down from the
11:05:09 29 screen then. It hasn't been going to the media room since
11:05:12 30 it's been up on the screen.
11:05:12 31
11:05:13 32 MR HANNEBERY: I'm not sure, I think there are media in
11:05:16 33 this court. I don't think this court's completely free
11:05:18 34 of - - -
11:05:19 35
11:05:20 36 MR WINNEKE: There's a gentleman from the media that's
11:05:22 37 raised his hand.
11:05:22 38
11:05:23 39 COMMISSIONER: All right then. What are the numbers that
11:05:25 40 there's no objection to?
11:05:28 41
11:05:29 42 MR HANNEBERY: I would say none of them.
11:05:32 43
11:05:33 44 MR WINNEKE: Commissioner, the phone numbers which are
11:05:35 45 coloured are the numbers which are of interest.
11:05:39 46
11:05:40 47 COMMISSIONER: Yes, but we know that this witness, for

11:05:45 1 example, still uses that phone so he doesn't want his
11:05:48 2 number published. What would probably be good is if this
11:05:52 3 document can be produced in a form with the
11:05:56 4 colour-coding - - -
11:05:57 5
11:05:57 6 MR WINNEKE: Without the numbers.
11:05:59 7
11:05:59 8 COMMISSIONER: Without the numbers.
11:06:00 9
11:06:01 10 MR HANNEBERY: No objection, we're all happy with that.
11:06:02 11 I'm more worried about the current situation.
11:06:05 12
11:06:06 13 COMMISSIONER: I understand you still want an order. Yes,
11:06:08 14 I understand. You still want an order to stop the media
11:06:11 15 publishing.
11:06:12 16
11:06:12 17 MR WINNEKE: Yes.
11:06:12 18
11:06:12 19 COMMISSIONER: I'll order that in respect of Exhibit 233
11:06:15 20 there's to be no publication of any of the telephone
11:06:19 21 numbers listed on that exhibit. I'm satisfied that that
11:06:23 22 order is necessary to be made and it'll have to be added to
11:06:27 23 the orders that are on the door of the court, affixed to
11:06:31 24 the courtroom door. In that case you can leave it up
11:06:35 25 because there's that order going and you can also stream it
11:06:39 26 now to the media room.
11:06:49 27
11:06:50 28 MR WINNEKE: Thanks Commissioner. Can you, to the best of
11:06:53 29 your recollection, tell the Commissioner what occurred that
11:06:56 30 morning, that is after you have these conversations? Do
11:07:03 31 you go to the court?---Later on I do.
11:07:05 32
11:07:05 33 Yeah?---I think the sequence from how I remember it, I got
11:07:09 34 a phone call, I think it was probably from Paul's wife
11:07:12 35 telling me what had happened. It looks like I make a phone
11:07:17 36 call to Nicola. I don't remember that but I completely
11:07:20 37 accept the records.
11:07:21 38
11:07:21 39 Yes?---At some stage after that I went round to Paul's
11:07:24 40 house to speak to Paul's wife. I reckon I made a phone
11:07:32 41 call to the ESD investigator at some stage.
11:07:37 42
11:07:37 43 Who was that?---I reckon I spoke to a female. I don't know
11:07:41 44 whether she was a lead investigator or she was just someone
11:07:45 45 who'd been given the job to fob me off.
11:07:48 46
11:07:48 47 Right. What was the reason for calling the ESD

11:07:52 1 investigator?---I wanted to get a sense of what was
11:07:54 2 happening, whether he was likely to be charged, whether he
11:07:56 3 was just going to be interviewed and released or what the
11:07:59 4 story was.
11:08:00 5
11:08:00 6 Yes?---Yeah, so I did that. I reckon at some stage I rang
11:08:06 7 the Police Association.
11:08:08 8
11:08:08 9 For the purpose of?---Letting them know what had happened.
11:08:12 10
11:08:14 11 Why would you need to call the Police Association?---I
11:08:17 12 wasn't 100 per cent sure whether they would take over the
11:08:22 13 legal representation of Paul from Nicola or what the
11:08:25 14 arrangements were but I just thought it prudent to let them
11:08:29 15 know and let their legal section know that Paul had been
11:08:33 16 arrested and may be in need of legal assistance. I didn't
11:08:36 17 know what the funding arrangements and all of that were.
11:08:39 18
11:08:39 19 Do you think that might have been because you were aware
11:08:43 20 that Ms Gobbo couldn't act for Paul Dale because she was
11:08:47 21 acting for other people?---No, I don't think that was in my
11:08:50 22 head.
11:08:50 23
11:08:51 24 You don't think so?---No.
11:08:52 25
11:08:58 26 Do you say that in that three and a half minute
11:09:01 27 conversation there was no discussion about what role Nicola
11:09:04 28 Gobbo would have to play in the remand or any bail
11:09:06 29 application or anything like that?---No, I don't remember
11:09:08 30 that phone call at all.
11:09:10 31
11:09:10 32 Yes, all right. In any event, keep going. So you think
11:09:13 33 you called the Police Association?---Yeah. At some stage I
11:09:19 34 think during the afternoon I reckon I became aware, and I
11:09:25 35 can't remember whether someone called me or I perhaps
11:09:27 36 called back ESD to see where things were at, but I think I
11:09:32 37 became aware that Paul - and they were going to be charged
11:09:38 38 and presented before the court.
11:09:39 39
11:09:39 40 Yes?---So I drove Paul's wife into court.
11:09:42 41
11:09:43 42 Yes. What happened after that?---I remember speaking to
11:09:54 43 Nicola at court.
11:09:56 44
11:09:56 45 Right. Was anyone present when you were speaking to
11:10:02 46 Nicola?---Yeah, I think it was sort of like a group. I
11:10:05 47 think, I reckon Tony Hargreaves might have been there.

11:10:08 1
11:10:09 2 Yep?---I don't think I ever spoke to her one-on-one at the
11:10:13 3 court, it was like a standing around sort of group that I
11:10:17 4 was part of.
11:10:18 5
11:10:20 6 Yep?---And I reckon that's the time when I first became
11:10:22 7 aware or it was first mentioned that she'd had some
11:10:26 8 involvement with Hodson previously or that she no longer
11:10:30 9 was acting for him or something. I remember that was the
11:10:34 10 first time I think I became aware of it.
11:10:36 11
11:10:36 12 You were in court I take it when Paul was remanded?---Yes.
11:10:39 13
11:10:40 14 And who appeared for him?---I can't remember.
11:10:44 15
11:10:52 16 As far as you were aware did Paul's wife go to Ms Gobbo's
11:10:57 17 chambers?---She may have.
11:11:05 18
11:11:05 19 Is that a recollection you have?---I might have went with
11:11:11 20 her maybe, yeah.
11:11:12 21
11:11:12 22 So you believe that you might have gone to Gobbo's chambers
11:11:15 23 with Carolyn Dale?---Yeah, I - yes possibly.
11:11:24 24
11:11:24 25 Are you able to say what the purpose of that was, why did
11:11:26 26 you go there?---No, I'd be guessing, but I do have a vague
11:11:31 27 recollection of going there with Didi.
11:11:36 28
11:11:37 29 I take it it wasn't a social chitchat, it related to - - -
11:11:39 30 ?---No, it would have been something to do with his case or
11:11:42 31 the bail application, or what was happening. It certainly
11:11:45 32 wouldn't have been a social visit.
11:11:47 33
11:11:47 34 Do you think it was to have discussions about the
11:11:49 35 possibility of making a bail application?---Yeah, I think
11:11:51 36 that's entirely reasonable.
11:11:55 37
11:11:55 38 I take it you agree that there was no bail application made
11:11:59 39 on the 5th, was there?---No, there wasn't.
11:12:02 40
11:12:02 41 Was there discussion about whether there ought be an
11:12:06 42 application for bail?---I think it was accepted fairly
11:12:10 43 early on that there would at some stage be a bail
11:12:13 44 application, but I think everyone agreed that that day
11:12:17 45 wasn't the day to make it. So in the future there would
11:12:21 46 have been, there was a plan to make a bail application.
11:12:24 47

11:12:25 1 Do you believe that in the period after - how long - are
11:12:31 2 you able to say for how long you were at the court for
11:12:35 3 before you left?---No. It wouldn't have been long, I don't
11:12:40 4 think. I reckon they got called on after lunch. So it
11:12:43 5 would have been two hours at best before the court finished
11:12:46 6 anyway, so yeah, I don't remember being there forever.
11:12:52 7
11:12:55 8 If we look at the telephone records, if we go to p.22. You
11:13:04 9 see that there's a communication between - from Gobbo to
11:13:11 10 you at 4.50 and then another one at 4.54?---Yes.
11:13:19 11
11:13:19 12 And then another one at - in fact I withdraw that. You
11:13:26 13 called her, I apologise, you called her at 4.50,
11:13:31 14 4.54?---Yes.
11:13:31 15
11:13:31 16 Then you call her again at 7.35, 19:35?---Yes.
11:13:36 17
11:13:36 18 Do you see that?---Yes.
11:13:37 19
11:13:38 20 Then on the 6th there's a telephone call from you to her
11:13:43 21 which goes for a minute and a half, do you see that?---Yes.
11:13:46 22
11:13:50 23 Do you recall what those communications were about?---Not
11:13:59 24 specifically but I do know that she was planning to visit
11:14:04 25 Paul.
11:14:04 26
11:14:05 27 Yep?---So I expect it may have been to do with that.
11:14:09 28
11:14:09 29 All right. You say that you understood on the 5th at or
11:14:13 30 about that time it was your belief that's when you found
11:14:16 31 out she had an involvement with Hodson, she was acting for
11:14:20 32 Hodson?---Or had.
11:14:21 33
11:14:21 34 Or had?---Yeah.
11:14:22 35
11:14:23 36 Did you know specifically what that situation was?---No, I
11:14:27 37 don't think it was gone into in any great detail.
11:14:32 38
11:14:32 39 Were you aware that she didn't act for Hodson and couldn't
11:14:36 40 act for Hodson for any particular reason, was that
11:14:38 41 something that was conveyed to you?---I seem to think she
11:14:44 42 didn't act for Hodson on the day that they were arrested.
11:14:47 43
11:14:47 44 Right. Do you know why?---No.
11:14:49 45
11:14:49 46 Was that conveyed to you?---No.
11:14:51 47

11:14:51 1 Right. On that day did you get an understanding that she
11:14:56 2 had acted for another, for other people who had been
11:14:59 3 charged in relation to this transaction?---I think I'd
11:15:03 4 become aware of that subsequent but I don't think I knew at
11:15:06 5 the time.
11:15:06 6
11:15:06 7 Yeah, all right, okay. You were aware, you say, that she
11:15:17 8 was going to visit him?---Yes.
11:15:20 9
11:15:20 10 Did you have discussions with her about that?---I don't
11:15:29 11 know there was a lot of discussion prior to, but I spoke to
11:15:32 12 her after she'd visited him.
11:15:33 13
11:15:34 14 Did you have discussions with Mr Hargreaves about a bail
11:15:37 15 application?---Later on but I think initially I was talking
11:15:42 16 to Nicola about the bail application.
11:15:44 17
11:15:44 18 When did you speak to Mr Hargreaves?---It was probably
11:15:50 19 closer to the time of the actual bail application.
11:15:52 20
11:15:53 21 Which is on 15 December; is that right?---That'd be about
11:15:56 22 right. Yeah, I thought it was about two weeks but that'd
11:16:00 23 be about right.
11:16:01 24
11:16:02 25 Do you know on how many occasions Ms Gobbo went to visit
11:16:04 26 Dale in custody?---More than once but I don't know how many
11:16:08 27 times.
11:16:08 28
11:16:09 29 Did you have discussions with her about her visits to see
11:16:13 30 him?---Yes.
11:16:13 31
11:16:13 32 And what do you say to the Commissioner about those
11:16:18 33 discussions, do you recall or not?---I remember speaking to
11:16:20 34 her about the visits and it was more how's he going, how's
11:16:28 35 he holding up.
11:16:29 36
11:16:29 37 Right. Did you go and visit him?---No.
11:16:31 38
11:16:36 39 Were you present at his bail application?---I think I was.
11:16:40 40
11:16:42 41 Did you give evidence?---No.
11:16:43 42
11:16:46 43 All right. Ms Gobbo wasn't appearing for him at the bail
11:16:55 44 application, was she?---No.
11:16:56 45
11:16:57 46 Do you recall who it was?---I reckon it was Ian Hill.
11:17:03 47

11:17:04 1 Yeah, all right. Do you know why she wasn't appearing for
11:17:09 2 him?---No. Well I assume that once Paul became represented
11:17:18 3 by the Police Association that Tony Hargreaves' office
11:17:23 4 decided who he was going to brief. So I don't know the
11:17:25 5 detail behind that.
11:17:26 6
11:17:27 7 All right. You didn't have any discussions with her about
11:17:32 8 why she wasn't appearing for him?---I don't remember that I
11:17:36 9 did, no.
11:17:37 10
11:17:37 11 Why wouldn't you?---I don't remember why I did or I didn't.
11:17:49 12 My concern was that he was being represented by somebody
11:17:52 13 and that the bail application was being made, so.
11:17:56 14
11:17:57 15 Right. Subsequent to him being released on bail did you
11:18:03 16 have any discussions about what was in his brief with
11:18:07 17 either Ms Gobbo or Mr Dale, after he received his
11:18:14 18 brief?---Yeah, I remember looking at the brief after he'd
11:18:16 19 been served with the brief.
11:18:17 20
11:18:17 21 Was that in the presence of Dale?---I can't remember
11:18:24 22 whether I looked it over with him or I took it home one
11:18:27 23 night and read it, or - yeah, I don't think we necessarily
11:18:31 24 sat down together and went through it, but yeah, I seem to
11:18:35 25 have more of a recollection that I might have taken it home
11:18:38 26 one night and flicked through it.
11:18:40 27
11:18:41 28 Do you recall when the brief was delivered?---It was in the
11:18:44 29 New Year but I can't remember when.
11:18:45 30
11:18:46 31 Did you have discussions with Ms Gobbo about it?---No, I
11:18:50 32 don't remember doing that.
11:18:51 33
11:18:52 34 You had communications with her in the New Year I take it,
11:18:57 35 did you?---I expect I would have.
11:19:00 36
11:19:01 37 And do you believe you discussed Paul Dale's case with
11:19:04 38 her?---I don't know that I would have. There probably
11:19:14 39 wouldn't have been a whole lot to discuss between the bail
11:19:17 40 application and the brief being served.
11:19:18 41
11:19:19 42 What about after the brief was served?---Again, maybe. I
11:19:27 43 think by that stage I'm not sure that she was - she was no
11:19:32 44 longer representing Paul or, yeah, I think he had other
11:19:36 45 representation through Tony Hargreaves' office and, yeah, I
11:19:40 46 don't know that I would have discussed anything in great
11:19:43 47 detail with her.

11:19:44 1
11:19:44 2 Did you go out with Paul Dale and Nicola Gobbo in the New
11:19:49 3 Year, early 2004, did you continue having social contact
11:19:53 4 between them?---Yeah, I think that probably would have
11:19:55 5 happened.
11:19:56 6
11:19:56 7 Do you think you, she and Dale went out for drinks in the
11:20:02 8 New Year?---That's entirely possible.
11:20:04 9
11:20:06 10 Is it probable?---Yes, if you want to use probable. I
11:20:12 11 think it's probably more probable than possible.
11:20:17 12
11:20:17 13 Would you have had discussions with her and Dale about the
11:20:21 14 contents of the brief and Paul Dale's prospects, et
11:20:25 15 cetera?---Look, it may well have come up. I don't remember
11:20:28 16 specifically discussing that sort of thing but I think
11:20:31 17 that's entirely reasonable. It would have come up at some
11:20:35 18 point.
11:20:35 19
11:20:36 20 Again, as a matter of probabilities if you'd been out, and
11:20:40 21 you say it's probable that you did go out, again I suppose
11:20:47 22 it depends on whether it's before or after the delivery of
11:20:50 23 the brief?---Yes.
11:20:50 24
11:20:51 25 It's something that the three of you would have
11:20:53 26 discussed?---Yes.
11:20:53 27
11:20:54 28 Was it your understanding that she was providing legal
11:20:57 29 advice to Paul or was it social discussions?---I think
11:21:00 30 there were both. I don't know - yeah, I don't know that on
11:21:07 31 any of the times I was out socially with them that we were
11:21:11 32 necessarily, or Paul or I were necessarily getting legal
11:21:15 33 advice. Not while I was there I don't think. He may have
11:21:20 34 been getting legal advice separate to those occasions we
11:21:23 35 met, but yeah, I wouldn't say that any of those general
11:21:29 36 discussions were legal advice.
11:21:31 37
11:21:31 38 Yes, all right, okay. In any event you were of the view
11:21:35 39 that after, as far as you were concerned after
11:21:40 40 Mr Hargreaves became involved, Mr Hill became involved, she
11:21:44 41 was out of the picture as far as his legal advice was
11:21:48 42 concerned; is that right?---Yeah. Yeah, I think that's
11:21:51 43 reasonable.
11:21:51 44
11:21:51 45 Okay. Subsequent to the - were you present when Mr Dale
11:22:10 46 first appeared in court after the hand-up brief? Were you
11:22:17 47 present for the committal mention, for example, did you go

11:22:20 1 to any other court hearings?---Yeah, I did go to one of
11:22:24 2 them. That might have been the one I went to perhaps,
11:22:26 3 yeah.
11:22:26 4
11:22:27 5 And Ms Gobbo wasn't acting for him at that stage?---I don't
11:22:30 6 think so.
11:22:30 7
11:22:31 8 Yeah, all right. Did you have further discussions
11:22:38 9 subsequent to that committal mention with Ms Gobbo and/or
11:22:42 10 Paul Dale about any legal matters?---No, I don't think so.
11:22:51 11
11:22:53 12 When was the last time you saw and spoke to Paul
11:22:58 13 Dale?---It'd be every bit of ten years.
11:23:00 14
11:23:01 15 Did you speak to him at around the time that he was charged
11:23:05 16 with murder?---No, I don't think so.
11:23:08 17
11:23:10 18 So we're talking around early 2009. Had you spoken to him
11:23:16 19 at around that time? Were you still in communications with
11:23:19 20 him?---No, not really, no. Well, I would say no.
11:23:23 21
11:23:23 22 Okay. All right then. Thanks very much.
11:23:29 23
11:23:29 24 COMMISSIONER: Yes, Mr Nathwani.
25
26 <CROSS-EXAMINED BY MR NATHWANI:
27
11:23:33 28 Just two topics. The first one is in relation to
11:23:37 29 socialising where Ms Gobbo and Mr Dale were present?---Yep.
11:23:41 30
11:23:42 31 You've obviously told us previously, and also today, that
11:23:46 32 that's something that occurred on occasions where you,
11:23:49 33 Mr Dale and Ms Gobbo were all present drinking?---Yep.
11:23:52 34
11:23:55 35 Do you recall any occasions where you, with Ms Gobbo and
11:24:02 36 Mr Dale, were in the, I think it's called The Local pub on
11:24:07 37 Bay Street in Port Melbourne?---Yes, I've been there
11:24:10 38 before.
11:24:11 39
11:24:12 40 With Paul and Nicola Gobbo?---Yes.
11:24:13 41
11:24:15 42 Was that drinking in the evening?---Yes.
11:24:17 43
11:24:19 44 Do you accept that the three of you then went back to her
11:24:22 45 apartment?---I don't remember that.
11:24:25 46
11:24:26 47 Have you ever been to Nicola Gobbo's apartment? I'm not

11:24:28 1 saying anything other than social drinking, for example, is
11:24:33 2 occurring, I'm just asking if you've been back to her
11:24:37 3 apartment?---Yes.
11:24:37 4
11:24:38 5 Have you been back when Paul Dale has been at her
11:24:41 6 apartment?---I don't remember going with Paul.
11:24:42 7
11:24:45 8 Are you aware, because obviously you're a very close
11:24:47 9 friend, or were, of Paul Dale, whether he had been to her
11:24:52 10 apartment in Port Melbourne?---No.
11:24:54 11
11:24:54 12 Just dealing with your friendship with Mr Dale. Am I right
11:24:56 13 in saying that you were a very close friend of his?---Yeah,
11:25:00 14 I think that's reasonable.
11:25:01 15
11:25:01 16 You've told us you stopped talking for ten years, is there
11:25:05 17 any particular reason for that?---Around about 2007 or 8
11:25:13 18 the police introduced a declarable associations policy and
11:25:18 19 I was required to declare my friendship with Paul and
11:25:22 20 effectively I was instructed to cease contact with him.
11:25:25 21
11:25:25 22 I understand. Since you've - so it's right that you've had
11:25:37 23 no contact at all with him then since that time?---I think
11:25:40 24 - yeah, I can't remember having contact with him.
11:25:41 25
11:25:43 26 Can we move on to the second topic, which is legal
11:25:46 27 representation and in the context of the Dublin Street
11:25:50 28 burglary and what followed, okay. So we know late
11:25:54 29 September 2003 the burglary occurs?---M'mm.
11:25:57 30
11:26:00 31 On 28 September there was some evidence yesterday that
11:26:04 32 Mr Dale called Nicola Gobbo in relation to a number of
11:26:09 33 people arrested because they'd asked for her and the names
11:26:12 34 of Mr Ahmed and Nadim Ahmed, who wasn't charged, and Abbey
11:26:19 35 Haynes and Ms O'Reilly were all mentioned. Did he, that's
11:26:24 36 Mr Dale, ever express to you or discuss with you that his
11:26:29 37 colleague Miehchel had been arrested at the burglary on that
11:26:32 38 day?---He told me about it. Are you asking when he told
11:26:38 39 me?
11:26:38 40
11:26:38 41 Yeah. So late September, because we're interested in
11:26:43 42 Mr Dale obviously, as you've said, you've been present when
11:26:46 43 he's sought legal advice from Nicola Gobbo and the
11:26:49 44 Commissioner, as we understand it, is interested in the
11:26:52 45 nature and purpose of that legal advice, okay?---Right.
11:26:57 46
11:26:57 47 And whether it was legal advice?---Okay.

11:26:59 1
11:27:00 2 Do you agree - well, firstly, do you accept having
11:27:04 3 conversations with Mr Dale soon after the burglaries about
11:27:07 4 the fact his colleague Miechel had been arrested?---Yes.
11:27:11 5
11:27:11 6 And the fact that Terry Hodson had been arrested?---I knew
11:27:16 7 that a third party had been arrested. I don't think I knew
11:27:21 8 the name.
11:27:22 9
11:27:22 10 Did you know that Terry Hodson was an informer that was
11:27:26 11 being run by Dale and Miechel?---I became aware of that
11:27:31 12 later.
11:27:31 13
11:27:32 14 When later? Was it from Paul Dale, is probably the first
11:27:39 15 question? Did Paul Dale make you aware of that?---I think,
11:27:46 16 I don't know whether Paul was the first one who told me. I
11:27:49 17 knew that a police informer had been arrested. I don't
11:27:53 18 know that I knew the name and - - -
11:27:59 19
11:27:59 20 Did he, that's Mr Dale, between September and December when
11:28:04 21 he's charged, express to you any concerns that he may be
11:28:10 22 arrested, or be implicated, so arrested or implicated, in
11:28:19 23 the Dublin Street burglary?---Yeah, I think he would have,
11:28:22 24 yeah. He was concerned about it so, yeah, I obviously
11:28:25 25 became aware of it.
11:28:26 26
11:28:28 27 Obviously when you came here last time and in your
11:28:31 28 statement you indicate that your memory is you sought legal
11:28:35 29 advice from Ms Gobbo on two or three occasions?---M'mm.
11:28:38 30
11:28:38 31 I think you detailed on the last occasion once was at her
11:28:41 32 chambers and a second occasion where he, Mr Dale, came
11:28:45 33 along. I think earlier you said he was going and you
11:28:50 34 decided to tag along. What was the purpose of him going to
11:28:53 35 see Ms Gobbo as far as you were aware, because he must have
11:28:56 36 said?---I don't know that he gave me detail but I
11:29:03 37 understood he was going to get some advice.
11:29:06 38
11:29:12 39 You obviously were going along, as I understand it, because
11:29:17 40 you were worried about your association with
11:29:19 41 Mr Dale?---Yes.
11:29:19 42
11:29:19 43 At relevant times?---Yes.
11:29:20 44
11:29:22 45 So there must have been a conversation that he was going
11:29:25 46 along to discuss what was happening with the Dublin Street
11:29:28 47 burglary, or his implication in it, do you agree with

11:29:32 1 that?---I don't specifically remember the discussion but
11:29:36 2 that's not unreasonable.

11:29:37 3
11:29:37 4 It would be a bit odd, wouldn't it, for him to say, "I'm
11:29:43 5 going for this reason, do you want to tag along and have a
11:29:47 6 chat"?---Yeah.

11:29:48 7
11:29:48 8 Do you accept he had an interest in whether or not Terry
11:29:51 9 Hodson was likely to roll on him?---Yeah.

11:29:59 10
11:29:59 11 Did he express that to you, that he was worried that
11:30:05 12 Hodson, and less so Miehlel, one of the two, one or the
11:30:08 13 other, could provide a statement as against him?---Yeah, I
11:30:13 14 think we did - or I became aware of that, that he was
11:30:17 15 concerned that they might try and better their own position
11:30:20 16 by providing statements or that sort of thing.

11:30:22 17
11:30:25 18 And he was aware, do you agree, that his phone was off, by
11:30:30 19 that we mean being listened to?---I don't know that he was
11:30:33 20 actually aware but it would have been a fairly common
11:30:39 21 investigative technique. I think we all would have been
11:30:44 22 surprised if it wasn't.

11:30:45 23
11:30:45 24 We've obviously been given or we've seen earlier that the
11:30:48 25 document which was I think the summary of the case against
11:30:51 26 him, and there's a message from you, and I'm just using the
11:30:54 27 phrase that's used, which was that he was to ring you back
11:30:58 28 using a "good phone"?---M'mm.

11:31:01 29
11:31:01 30 And you accepted that was a reference to what I would term
11:31:05 31 a dirty phone or a bodgie phone or a phone that can't be
11:31:08 32 traced back to him, do you agree with that?---Yes, or maybe
11:31:11 33 just one that perhaps wasn't intercepted.

11:31:13 34
11:31:15 35 Do you agree that at the time he was using several dirty
11:31:21 36 phones?---I'm not sure of that.

11:31:24 37
11:31:29 38 Are you saying your only contact with him was on the phone,
11:31:34 39 his registered phone, the one with the telephone
11:31:37 40 intercept?---I'm not going to say I have never rung him on
11:31:43 41 other numbers. I don't know whether they were work phones,
11:31:45 42 what the numbers were.

11:31:47 43
11:31:47 44 You see, you understand the reason I'm asking you is
11:31:51 45 obviously you were very close to him back then?---M'mm.

11:31:54 46
11:31:55 47 And it's obvious from your evidence you were involved with

11:31:56 1 him as a friend. You know, when he's charged you were
11:31:58 2 helping him. So were you aware, because you were close to
11:32:03 3 him at the time, about his use of phones to communicate, as
11:32:05 4 an example, with Ms Gobbo?---No.

11:32:08 5
11:32:12 6 Can I just move forward to the day of the arrest. I'm
11:32:18 7 trying to jog your memory. There's a letter you wrote that
11:32:21 8 I don't need to bring up. If I do, we will. But do you
11:32:25 9 remember writing - I think the letter is dated 22 December
11:32:29 10 2003 - to Paul Mullett at the Police Association?---Yes.

11 11
11:32:45 12 I'll help to jog your memory. You were concerned, the
11:32:45 13 letter indicates, that there was an arrangement between the
11:32:45 14 Police Association and a firm of solicitors?---Right.

11:32:45 15
11:32:45 16 And you were concerned that there was only one firm of
11:32:45 17 solicitors that there was an agreement with that would
11:32:48 18 represent arrested police members and were worried if there
11:32:51 19 was ever a conflict either between several police officers
11:32:51 20 charged or between the Police Force and the individual
11:32:55 21 member, does that ring any bells?---Yeah, it does.

11:32:58 22
11:32:58 23 I just want to read something to help jog your memory about
11:33:03 24 what happened on the day that Mr Dale was arrested. You
11:33:07 25 say this, "I'm a very close friend and former colleague of
11:33:11 26 Detective Sergeant Paul Dale who was attached to the Major
11:33:15 27 Drug Investigation Division. Paul was recently arrested by
11:33:17 28 ESD at his home when a search warrant was executed there on
11:33:21 29 5 December. He was subsequently charged and remanded into
11:33:24 30 custody. He has since made a successful bail application".
11:33:28 31 Then this, "After speaking to Paul on the day of his arrest
11:33:31 32 I contacted the Police Association on his behalf to seek
11:33:35 33 assistance and spoke to Bernie Elliott. After briefly
11:33:39 34 outlining the situation Bernie immediately referred me to
11:33:42 35 Tony Hargreaves at Kenna Croxford. Bernie was
11:33:47 36 professional, decisive and his prompt assistance was
11:33:50 37 greatly appreciated. Likewise Tony Hargreaves was
11:33:55 38 professional in his approach and of great assistance to
11:33:57 39 Paul and his family". Okay. So jogging your memory if I
11:34:04 40 can. Do you recall Paul Dale was the one who rang you from
11:34:08 41 the police station to tell you he was arrested?---He may
11:34:18 42 have. I thought I got a phone call from his wife but Paul
11:34:21 43 might have called me.

11:34:22 44
11:34:22 45 Does what you've written there ring any bells in the sense
11:34:26 46 that do you agree that you then contacted the Police
11:34:32 47 Association and spoke to someone called Bernie Elliott who

11:34:35 1 referred you to Tony Hargreaves?---Yes.
11:34:37 2
11:34:37 3 And as a result Tony Hargreaves acted for Paul Dale, do you
11:34:41 4 agree with that?---Yes.
11:34:43 5
11:34:43 6 As you rightly pointed out Ian Hill was then instructed for
11:34:48 7 the bail app and I think for the committal later
11:34:50 8 on?---Right.
11:34:50 9
11:34:51 10 Do you agree from that point at the very least Paul had,
11:34:54 11 Paul Dale that is, his own legal team, paid for by the
11:35:00 12 police association?---Yes.
11:35:01 13
11:35:02 14 Had Hargreaves representing him, that's Mr Hargreaves, and
11:35:06 15 had counsel as well?---Yes.
11:35:08 16
11:35:16 17 Again, because you're one of Mr Dale's close friends,
11:35:20 18 there's a note in Ms Gobbo's court book on 5 December, so
11:35:28 19 this is the day of his arrest, and it seems to be from, a
11:35:32 20 call from Sergeant Gregor at ESD and then there's a note
11:35:37 21 that says this, that he's arrested Dale and, "Either
11:35:42 22 Michael or Hodson has rolled. They've been reading from a
11:35:46 23 statement, it's too detailed to be made up because there's
11:35:48 24 a significant amount of detailed accusations. Suspended
11:35:53 25 from duty? Call Kenna Croxford". Now, Mr Dale at the time
11:35:59 26 was he concerned, was he ever saying to you, certainly
11:36:04 27 after his release or around the time, that either Michael
11:36:09 28 or Hodson had rolled and the evidence against him was a
11:36:13 29 statement that was too detailed to be made up because of
11:36:16 30 the, a large number of detailed accusations?---I remember
11:36:21 31 that being discussed after the arrest and perhaps after he
11:36:27 32 was released on bail and there was discussion on the day of
11:36:33 33 the arrest about who may or may not have made statements
11:36:37 34 and what the evidence was and all of that, but - - -
11:36:41 35
11:36:41 36 Was he interested, Mr Dale, in contacting Carl Williams or
11:36:45 37 Tommy, Tommy Ivanovic at that time?---No idea.
11:36:51 38
11:36:51 39 Or Andrew, which I'd say is Andrew Hodson, Mandy Hodson or
11:36:56 40 Tony Mokbel?---No idea.
11:36:58 41
11:36:59 42 You see, again, just because he's your close friend there's
11:37:02 43 a note from a conference on 14 December 2003 at Port
11:37:07 44 Phillip Prison, Paul Dale in the Charlotte unit, and it
11:37:11 45 reads, "Going through the summary from Alex, there's a
11:37:13 46 discussion". Was Paul Dale unhappy that initially with
11:37:18 47 Mr Hill, Ian Hill representing him because Ian Hill had

11:37:21 1 represented Mr Roberts who had been accused of the
11:37:25 2 Silk/Miller murders?---Yeah, yeah, that does ring a bell,
11:37:30 3 yep.
11:37:31 4
11:37:32 5 Were you ever aware that he'd been on lock down for the
11:37:34 6 first week from 4 pm on a Friday, so he was remanded on a
11:37:38 7 Friday and he'd been on lock down for a week since then,
11:37:42 8 were you aware of that, was he complaining to you of that
11:37:46 9 ever?---He spoke to me about his time in custody. Yeah, I
11:37:51 10 don't specifically remember that. I think I did know that
11:37:54 11 he was, you know, essentially in protective custody so that
11:37:57 12 would involve pretty much lock down, yeah.
11:38:00 13
11:38:02 14 Did he ever say to you that Terry Hodson was "staunch", did
11:38:07 15 you ever hear him say that?---I don't ever remember that.
11:38:13 16
11:38:14 17 Did you he ever express to you that he was not happy with
11:38:17 18 his representation by Mr Hargreaves?---I don't remember it,
11:38:21 19 no.
11:38:22 20
11:38:23 21 Then this is the final entry, obviously you don't remember
11:38:26 22 some but you confirmed that he spoke to you about it, "He's
11:38:31 23 asking speak to Carl Williams or Tommy, ESD, and Andrew,
11:38:36 24 Mandy and Mokbel". Was he keen even in prison to be
11:38:40 25 speaking to Carl Williams at that time?---I have no idea.
11:38:44 26
11:38:52 27 As I understand it, when you have visited Nicola Gobbo with
11:38:59 28 him you haven't been in earshot of what they've been
11:39:04 29 discussing?---That's right.
11:39:04 30
11:39:04 31 So you believe it was for legal advice because he told you
11:39:08 32 that's what it was for, is that right?---Yes.
11:39:10 33
11:39:10 34 As far as you were concerned legal advice, am I right in
11:39:14 35 saying when you spoke to Nicola Gobbo it was always in
11:39:21 36 discussion about Paul Dale, he was central to the advice
11:39:24 37 you were seeking?---For my own legal advice are you talking
11:39:28 38 about?
11:39:31 39
11:39:31 40 Yes?---Yes.
11:39:31 41
11:39:31 42 So when you were speaking to her as well, "I'm a friend of
11:39:35 43 Paul's, I was with him on this day, that day"?---Yes.
11:39:36 44
11:39:36 45 "How does that implicate me and where does that lead me
11:39:39 46 to"?---Yes.
11:39:40 47

11:39:40 1 Thank you very much.
11:39:42 2
11:39:43 3 MR HANNEBERY: No questions, Commissioner.
11:39:44 4
11:39:47 5 COMMISSIONER: Any questions, Mr Hill?
11:39:49 6
11:39:49 7 MR HILL: No.
11:39:50 8
11:39:50 9 COMMISSIONER: Mr Chettle?
11:39:51 10
11:39:51 11 MR CHETTLE: No.
11:39:52 12
11:39:52 13 COMMISSIONER: Any re-examination?
11:39:53 14
11:39:53 15 MR WINNEKE: No, Commissioner.
11:39:54 16
11:39:54 17 COMMISSIONER: All right, thanks Mr Argall, you're free to
11:39:56 18 go, thank you.
19
11:40:01 20 <(THE WITNESS WITHDREW)
21
11:40:02 22 I think you wanted a short adjournment or to discuss
11:40:06 23 some housekeeping matters.
11:40:07 24
11:40:07 25 MR WINNEKE: Yes, Commissioner. Mr Argall is the only
11:40:09 26 witness we have today. What we propose to do, I've had a
11:40:14 27 discussion with Mr Hannebery this morning to see if we
11:40:22 28 can't resolve some issues that we had in respect to the
29 provision of materials. It might be worthwhile if we have
11:40:23 30 some discussions and seek to reach some agreements and if
11:40:24 31 we can't, we might need to call upon you to deal with those
11:40:29 32 matters. But we will need to resume in due course in any
11:40:32 33 event to deal with some issues.
11:40:35 34
11:40:35 35 COMMISSIONER: Sure. We did tentatively talk about dealing
11:40:38 36 with Mr Chettle's application about proceeding, how we're
11:40:41 37 going to proceed with the handlers' evidence in the next
11:40:45 38 lot of witnesses in July at 2 o'clock.
11:40:48 39
11:40:49 40 MR CHETTLE: Yes, I'm happy to do that at any time,
11:40:51 41 Commissioner. I've made some inquiries and Mr Winneke and
11:40:54 42 I have had discussions briefly. I don't think there's much
11:40:58 43 - it's more logistics that need to be sorted out I think.
11:41:01 44
11:41:01 45 COMMISSIONER: Yes, but there was some suggestion that
11:41:04 46 other parties might need to be notified about that. There
11:41:06 47 was also some suggestion at one point of dealing today with

11:41:09 1 the State's application, Mr Hill, to oppose the granting of
11:41:17 2 leave to appear for those who claim to be affected parties
11:41:26 3 by Ms Gobbo's conduct and in that case there would probably
11:41:30 4 have to be notice given to the affected parties to be heard
11:41:33 5 on that.
11:41:34 6
11:41:34 7 MR HILL: I agree, Commissioner. I know that the State's
11:41:37 8 been developing some submissions. I haven't heard this
11:41:40 9 morning where they're up to. They're certainly at an
11:41:44 10 advanced stage.
11:41:45 11
11:41:45 12 COMMISSIONER: Do you know whether they would be in a
11:41:47 13 position to have that argument this afternoon?
11:41:51 14
11:41:52 15 MR HILL: I don't as I stand here.
11:41:53 16
11:41:53 17 COMMISSIONER: You might find out during the break.
11:41:57 18
11:41:57 19 MR HILL: Yes.
11:41:57 20
11:41:58 21 COMMISSIONER: All right then. Just in terms of that last
11:41:59 22 exhibit, Mr Winneke, 233.
23
24 MR WINNEKE: Yes.
25
11:42:00 26 COMMISSIONER: It will be necessary for the Commission to
11:42:02 27 prepare a copy of that exhibit which would be 233B without
11:42:07 28 the phone numbers in it but with the colour-coding and a
11:42:11 29 code for the colour-coding.
11:42:12 30
11:42:13 31 MR WINNEKE: In fact I think that, that's been discussed
11:42:16 32 already and it's being developed as we speak. Probably
11:42:21 33 soon.
11:42:21 34
11:42:21 35 COMMISSIONER: Thank you. All right, at this stage we'll
11:42:24 36 have an adjournment until - - -
11:42:26 37
11:42:28 38 MR PURCELL: Sorry Commissioner, for the sake of
11:42:30 39 completeness, might I be excused?
11:42:32 40
11:42:33 41 COMMISSIONER: Yes, certainly Mr Purcell. We'll adjourn
11:42:35 42 now until I hear something further.
11:43:06 43
44 LUNCHEON ADJOURNMENT
45
46
47

13:54:37 1 UPON RESUMING AT 2.00 PM:

14:09:45 2
14:09:46 3 COMMISSIONER: Yes Mr Winneke.

14:09:47 4
14:09:47 5 MR WINNEKE: Commissioner, before lunch and during lunch I
14:09:55 6 and my instructing solicitors have had discussions with
14:09:59 7 representatives of the Victoria Police with a view to
14:10:03 8 seeing if we can resolve some of the matters that are
14:10:10 9 causing hiccups, if you like, particularly with respect to
14:10:15 10 the provision of police diaries and original documents in
14:10:21 11 relation to which police officers are making statements.
14:10:25 12 We have got to a situation where there is at least
14:10:31 13 tentative agreement about how it might be improved, the
14:10:33 14 situation might be improved and there's, as I understand
14:10:39 15 it, the possibility that things might be advanced if we
14:10:43 16 were able to get diaries in a restricted way at an earlier
14:10:48 17 stage. Instructions are being sought about that and it's
14:10:51 18 anticipated we'll get an answer about that relatively soon
14:10:54 19 but I don't know whether it's in the next ten minutes or
14:10:58 20 today or tomorrow. But Mr Hannebery might be able to tell
14:11:01 21 us that if there's been - - -

14:11:04 22
14:11:04 23 MR HANNEBERY: I might be a little bit careful to put it in
14:11:07 24 terms of tentative agreement. What I can say is that we've
14:11:11 25 had some discussions about these issues. There are matters
14:11:14 26 to discuss with our clients to get instructions about that
14:11:18 27 we'll do those as quickly as we can.

14:11:20 28
14:11:21 29 COMMISSIONER: You and Mr Winneke can talk about that
14:11:23 30 before court tomorrow and inform me what the position is
14:11:26 31 then.

14:11:26 32
14:11:27 33 MR WINNEKE: Yes.

14:11:27 34
14:11:27 35 COMMISSIONER: All right. There were some other issues, I
14:11:29 36 was told, quite apart from the police diaries which I was
14:11:33 37 told was the biggest problem but also some outstanding
14:11:36 38 witness statements. Hatt, Biggin, Flynn, Kerley, the
14:11:42 39 statements of the Victorian police officers who knew Nicola
14:11:49 40 Gobbo was a source.

14:11:50 41
14:11:50 42 MR WINNEKE: Again those matters have been the subject of
14:11:52 43 discussions. We have been told we will be provided with a
14:11:55 44 number of further statements today, sorry, in the next day
14:11:59 45 or so. One of the issues that has been discussed is
14:12:03 46 whether the Commission will obtain statements, as they are,
14:12:07 47 whether we get them prior to analysis for public interest

14:12:12 1 immunity. So that's a matter that's been discussed and we
14:12:15 2 understand that we will, the Commission will get statements
14:12:22 3 which have not been redacted, although that may be, I don't
14:12:25 4 want to verbal my learned friend, it may well be there will
14:12:28 5 be, instructions need to be sought about that, but that
14:12:32 6 seems to be - - -

14:12:32 7
14:12:32 8 COMMISSIONER: That's still ongoing then. Outstanding day
14:12:37 9 books and diaries, Allen, Ryan, L'Estrange, Hatt, Kerley,
14:12:38 10 Kelly, Rowe, Biggin, O'Brien.

14:12:39 11
14:12:40 12 MR WINNEKE: Those matters have been discussed also. The
14:12:43 13 expectation is, Commissioner, a lot of the matters on your
14:12:47 14 list - - -

14:12:47 15
14:12:47 16 COMMISSIONER: I want to move through them very quickly to
14:12:50 17 make sure that everything is - Trichias's statement, that's
14:12:55 18 also being discussed, is it?

14:12:56 19
14:12:57 20 MR WINNEKE: Yes, as I understand it that's complete and
14:13:00 21 that will be provided, we understand.

14:13:04 22
14:13:05 23 COMMISSIONER: All right. Then the Acquaro issues.

14:13:10 24
14:13:11 25 MR WINNEKE: They have been discussed and they'll be -
14:13:14 26 we'll provided with information tonight about that.

14:13:17 27
14:13:17 28 COMMISSIONER: The next matter on my list was the State's
14:13:19 29 application opposing leave for affected persons and there's
14:13:28 30 been an unsigned, therefore I suppose a draft affidavit
14:13:33 31 from Mr Brendan Money that's been provided.

14:13:37 32
14:13:38 33 MR WINNEKE: I've had discussions with Mr Hill about that
14:13:41 34 matter. There seem to be two distinct issues there. One
14:13:46 35 is whether or not matters will be live-streamed, that is
14:13:49 36 the subject of the Money affidavit. The other issue, as I
14:13:54 37 understand it the Commission will in due course be provided
14:13:55 38 with a submission which concerns the ability of potentially
14:13:59 39 affected persons to participate in the hearing by way of
14:14:02 40 cross-examination and that's something that I gather will
14:14:05 41 be the subject of submissions. Mr Hill is obviously
14:14:10 42 seeking instructions about that. We would certainly hope
14:14:14 43 that we would be in a position, indeed, I think there's
14:14:18 44 time tomorrow afternoon. It may well be - - -

14:14:21 45
14:14:21 46 COMMISSIONER: I think we only have one witness ready to
14:14:24 47 proceed because of the late submission of materials.

14:14:27 1
14:14:27 2 MR WINNEKE: Various issues. Mr Kelly, as I understand it,
14:14:29 3 will be giving evidence tomorrow, Jason Kelly.
14:14:32 4
14:14:33 5 COMMISSIONER: He's not expected to take more than half a
14:14:35 6 day.
14:14:37 7
14:14:38 8 MR WINNEKE: Mr Woods is dealing with Mr Kelly. The
14:14:42 9 expectation is about half a day, perhaps a little bit
14:14:44 10 longer, which would enable us in the afternoon tomorrow
14:14:47 11 morning, if Mr Hill is in a position to do so, we'd
14:14:49 12 certainly hope he would, be in a position to make any
14:14:51 13 argument about that tomorrow.
14:14:52 14
14:14:52 15 COMMISSIONER: We have to give notice to the people who are
14:14:55 16 claiming to be potentially affected.
14:14:59 17
14:15:00 18 MR WINNEKE: I agree that's absolutely right and that may
14:15:03 19 well cause some issues.
14:15:05 20
14:15:05 21 COMMISSIONER: Mr Hill, why don't we deal with that
14:15:08 22 tomorrow afternoon?
14:15:09 23
14:15:09 24 MR HILL: Commissioner, I've just got instructions that
14:15:13 25 timing should be suitable. It's with the client, we're
14:15:17 26 trying to get it filed as soon as possible.
14:15:19 27
14:15:19 28 COMMISSIONER: You'll need to give notice to the
14:15:23 29 potentially affected people who appeared on the last
14:15:27 30 occasion.
14:15:27 31
14:15:27 32 MR HILL: I'm wondering, Commissioner, I'm not sure we have
14:15:29 33 the contact details for all of them.
14:15:29 34
14:15:30 35 MR WINNEKE: Commissioner, we'll give notice to those
14:15:31 36 people. We'd certainly like the submissions as soon as we
14:15:35 37 can. If we can get those we will give notice to the
14:15:38 38 affected persons. If it appears that that can be achieved
14:15:42 39 tomorrow afternoon, so much the better. If it can't be
14:15:45 40 done tomorrow afternoon obviously as soon as possible
14:15:48 41 thereafter.
14:15:49 42
14:15:49 43 COMMISSIONER: We have a gap tomorrow afternoon. It's on
14:15:53 44 tomorrow unless I say otherwise. So tomorrow not before
14:15:56 45 2 pm.
14:15:56 46
14:15:56 47 MR HANNEBERY: Sorry, Commissioner, before you move off

14:15:56 1 that, in relation to the Kelly evidence, I draw your
14:16:00 2 attention that there are some references to Person 7, so
14:16:03 3 subject to Court of Appeal rulings there will be
14:16:07 4 applications for that to be heard in a closed hearing,
14:16:12 5 portions of it, Commissioner.
14:16:14 6
14:16:14 7 COMMISSIONER: I'll have a look at it and the application
14:16:16 8 can be made tomorrow.
14:16:17 9
14:16:17 10 MR HANNEBERY: Yes.
14:16:18 11
14:16:19 12 COMMISSIONER: The next document I've got is a Mokbel
14:16:22 13 cartel document Notice to Produce.
14:16:25 14
14:16:26 15 MR WINNEKE: There has been discussion about that.
16
17 COMMISSIONER: That's in hand?
18
14:16:28 19 MR WINNEKE: We will be told about that at the end of the
14:16:31 20 today.
14:16:31 21
14:16:32 22 COMMISSIONER: Yes. PII review of the ICRs and the
14:16:34 23 Loricated database, what's happening with that?
14:16:36 24
14:16:37 25 MR WINNEKE: That's something that was also discussed. I
14:16:39 26 don't know if there's anyone at the Bar table who can give
14:16:43 27 a sensible answer about that, but that has been the subject
14:16:47 28 of discussions.
14:16:47 29
14:16:48 30 COMMISSIONER: We'll hear more about that later if needs
14:16:50 31 be. PII review of SDU statements.
14:16:53 32
14:16:54 33 MR WINNEKE: Again, that's been discussed. The expectation
14:16:55 34 is that that will be completed by 8 July in time to enable
14:17:01 35 the SDU witnesses to give evidence on 22 July as discussed
14:17:05 36 on 5 June when we had our directions hearing.
14:17:07 37
14:17:08 38 COMMISSIONER: We'll probably need to confirm that at the
14:17:10 39 end of this lot of hearings next week, I guess. The
14:17:17 40 affidavit - - -
14:17:19 41
14:17:19 42 MR WINNEKE: Affidavits with respect to the statement of
14:17:21 43 Mr Rowe. I understand, instructions are being sought about
14:17:31 44 that and again we will be told today how long it will take
14:17:35 45 for that affidavit to be provided. Obviously our learned
14:17:38 46 friends are instructing us that it will be done as soon as
14:17:42 47 humanly possible but we'll be told today when that will be

14:17:45 1 achieved.
14:17:47 2
14:17:47 3 COMMISSIONER: All right then. I think that was the - - -
14:17:51 4
14:17:52 5 MR WINNEKE: There's another matter I think. I think
14:17:54 6 Mr Mahoney may be able to give some evidence tomorrow
14:18:00 7 afternoon about some exhibits.
14:18:02 8
14:18:03 9 MS ARGIROPOULOS: Commissioner, this relates to the
14:18:04 10 outstanding PII claims concerning exhibits that have
14:18:07 11 previously been tendered. It is proposed to call
14:18:10 12 Mr Mahoney who wasn't available today because he's giving
14:18:14 13 evidence in the Court of Appeal proceedings. Many of those
14:18:18 14 exhibits do concern issues concerning the person who is
14:18:24 15 subject to the Court of Appeal proceedings. So I have
14:18:26 16 discussed with my learned friend that there may be some
14:18:29 17 sense in awaiting the outcome of the Court of Appeal
14:18:32 18 proceedings before dealing with some of those exhibits.
14:18:35 19 Some of those exhibits could be dealt with potentially
14:18:38 20 tomorrow afternoon if Mr Mahoney is available. Again that
14:18:43 21 depends on what's happening with the Court of Appeal
14:18:45 22 proceedings but that's one possibility.
14:18:47 23
14:18:47 24 COMMISSIONER: All right. Let's play that by ear then.
14:18:51 25 That then takes us to Mr Chettle, your application.
14:18:55 26
14:18:55 27 MR CHETTLE: It's really, can I say something - - -
14:18:59 28
14:18:59 29 MR COLLINSON: Commissioner, sorry, it might be prudent if
14:19:00 30 I just raise this issue just now. Mr Kelly we're hearing
14:19:04 31 is giving evidence tomorrow.
14:19:05 32
14:19:05 33 COMMISSIONER: Yes.
14:19:06 34
14:19:06 35 MR COLLINSON: We have a redacted version of Mr Kelly's
14:19:09 36 statement and a matter we've raised with Victoria Police
14:19:12 37 and I think counsel assisting on a number of other
14:19:15 38 occasions is that we, as counsel for Ms Gobbo, should have
14:19:19 39 unredacted copies of the statements if we offer an
14:19:22 40 undertaking, which we're happy to do, not to convey the
14:19:26 41 contents of the unredacted statement to anybody, including
14:19:30 42 our client, without further application. I simply wanted
14:19:35 43 to, in the light of Mr Kelly apparently giving evidence
14:19:38 44 tomorrow, the only copy we have at the moment is a redacted
14:19:43 45 version and it could either be dealt with by a direction or
14:19:50 46 Victoria Police may be able to indicate a position as to
14:19:53 47 whether they're content for the statements of Mr Kelly, and

14:19:57 1 indeed later Victoria Police witnesses, to be provided to
14:20:02 2 us on that footing. I might say as well, Mr Kelly
14:20:08 3 apparently refers to documents in his statement, we'd like
14:20:12 4 to see those as well. Now I'm hoping there isn't any
14:20:16 5 resistance to that because I think we might have adopted
14:20:20 6 that procedure for at least some of the earlier Victoria
14:20:23 7 Police witnesses.
14:20:24 8
14:20:24 9 COMMISSIONER: Mr Hannebery, you will get some
14:20:27 10 instructions.
14:20:27 11
14:20:28 12 MR HANNEBERY: Yes.
14:20:28 13
14:20:28 14 COMMISSIONER: And hopefully you'll be able to tell
14:20:33 15 Mr Collinson the position and get the documents that he
14:20:37 16 needs to see as soon as possible.
14:20:40 17
14:20:40 18 MR HANNEBERY: Yes.
14:20:41 19
14:20:41 20 MR COLLINSON: Yes. It being the case, of course, we'd
14:20:43 21 need them today.
14:20:46 22
14:20:46 23 COMMISSIONER: Yes.
14:20:49 24
14:20:50 25 MR DOYLE: Commissioner, while we're on that topic, on
14:20:51 26 behalf of the Director and the OPP can I make a similar
14:20:55 27 request. We haven't seen a statement in any form from
14:20:58 28 Mr Kelly and we offered a similar undertaking.
14:21:01 29
14:21:02 30 COMMISSIONER: I wouldn't have thought there would be any
14:21:04 31 trouble with that one but who knows.
14:21:06 32
14:21:07 33 MR DOYLE: I came to the Commission today, Commissioner, in
14:21:09 34 possession of a single police statement which covers
14:21:14 35 evidence to be given over the next couple of weeks and
14:21:18 36 maybe beyond without a single copy of a diary, redacted or
14:21:23 37 unredacted, and no other statement at all. Now, more has
14:21:28 38 been received during the day, not evidence to be adduced
14:21:31 39 tomorrow, and no diaries at all as I understand it. The
14:21:36 40 pattern that we've fallen into of evidence being provided
14:21:42 41 at such late notice might not be sustainable in this way
14:21:47 42 for much longer as the evidence moves into a period of time
14:21:53 43 where more persons are affected, more police investigations
14:21:57 44 take place, more prosecutions occur.
14:22:01 45
14:22:02 46 COMMISSIONER: As it starts to impact upon the OPP and the
14:22:04 47 DPP you mean?

14:22:07 1
14:22:07 2 MR DOYLE: Yes, we're moving into a period of time where
14:22:10 3 the Purana Task Force - - -
14:22:15 4
14:22:15 5 COMMISSIONER: Your client has some direct interest in
14:22:17 6 what's going on.
14:22:18 7
14:22:18 8 MR DOYLE: Yes, and many more prosecutions taking place and
14:22:22 9 so one would expect the police evidence to concern matters
14:22:25 10 in which the DPP, OPP and Crown Prosecutors are involved.
11
12 COMMISSIONER: Yes.
13
14:22:31 14 MR DOYLE: And yet we've got almost none of the evidence,
14:22:34 15 let alone the raw materials on which the statements will be
14:22:38 16 based.
14:22:39 17
14:22:39 18 COMMISSIONER: Mr Winneke, is the Commission in a position
14:22:41 19 to, I know you're getting material very late as well, but
14:22:44 20 once you've got material in, statements and other material
14:22:50 21 in a form that you can provide it to those outside the
14:22:55 22 Commission, could you, insofar as it impacts on the OPP and
14:22:59 23 the DPP will you provide that material to them?
14:23:02 24
14:23:02 25 MR WINNEKE: Commissioner, from our part we see absolutely
14:23:05 26 no reason why members of counsel and their instructing
14:23:11 27 solicitors ought not have statements of people who are
14:23:14 28 giving evidence in an appropriately redacted form. Clearly
14:23:19 29 there's some material which even the Commission is not
14:23:24 30 being provided with and that relates to witness protection
14:23:27 31 matters and informer identities.
32
33 COMMISSIONER: Other than Ms Gobbo.
34
14:23:29 35 MR WINNEKE: But other than that I see no reason, with
14:23:32 36 respect, why members of counsel and their instructing
14:23:35 37 solicitors ought not be provided with that material as soon
14:23:38 38 as possible and - if necessary, with appropriate
14:23:42 39 undertakings, but I think it's absolutely appropriate that
14:23:46 40 it be provided to them and the sooner the better.
14:23:49 41
14:23:49 42 COMMISSIONER: I think Mr Hannebery understands that now
14:23:51 43 and he's going to get to those instructions hopefully
14:23:55 44 overnight and hopefully we'll move forward with that
14:23:59 45 tomorrow.
14:24:02 46
14:24:02 47 MR CHETTLE: Before we get to my application, Commissioner,

14:24:04 1 I have not got a statement in relation to Kelly. You will
14:24:08 2 recall, Commissioner, I have raised this with you before,
14:24:12 3 that we find out that somebody is on. I found out at
14:24:17 4 lunchtime. I haven't got a statement. When I found out
14:24:19 5 that Jason Kelly was coming, I knew from my work on the
14:24:23 6 case that he is relevant to my clients and they are as we
14:24:29 7 speak pouring through the database to try and find the
14:24:32 8 material that relates to him. It's just impossible. I
14:24:36 9 don't know what's in his statement. I don't know what he's
14:24:39 10 going to say tomorrow. He's clearly relevant to my clients
14:24:43 11 because I understand - - -

14:24:45 12
14:24:45 13 COMMISSIONER: I think the Commission can certainly give
14:24:47 14 you a redacted copy, can't we?
14:24:49 15

14:24:49 16 MR WINNEKE: Commissioner, as I say, as far as I'm
14:24:51 17 concerned if a witness is being called as soon as possible
14:24:54 18 those statements ought be in a position - I'd ask
14:24:57 19 Mr Hannebery to indicate whether or not he has the
14:25:00 20 objection to doing exactly what I've just suggested, that
14:25:03 21 they be provided to Mr Chettle and other members - - -
14:25:05 22

14:25:06 23 COMMISSIONER: I think his answer is going to be he has to
14:25:08 24 take instructions.
14:25:09 25

14:25:10 26 MR WINNEKE: It may well be - - -
14:25:11 27

14:25:11 28 COMMISSIONER: Anyway, there's no problem with the redacted
14:25:13 29 one being given straight away.
14:25:16 30

14:25:18 31 MR WINNEKE: None at all.
14:25:19 32

14:25:19 33 COMMISSIONER: None at all. So that can either be done by
14:25:20 34 the Commission or by Mr Hannebery. But I take your point
14:25:22 35 that counsel having understood the position and agreed that
14:25:29 36 the unredacted statements will be used only by them and not
14:25:33 37 shown to anybody else other than the legal teams - - -
14:25:36 38

14:25:37 39 MR WINNEKE: That's an appropriate undertaking if they're
14:25:39 40 prepared to make it. I would think that is a way to
14:25:42 41 operate sensibly.
14:25:43 42

14:25:44 43 MR COLLINSON: Commissioner, can I just add this is
14:25:45 44 somewhat ridiculous. My learned junior and myself, we have
14:25:48 45 unrestricted access to unredacted material at the Loricated
14:25:52 46 database, at the police premises.
14:25:53 47

14:25:53 1 COMMISSIONER: I know.
14:25:54 2
14:25:55 3 MR COLLINSON: Why does Mr Hannebery need to get
14:25:57 4 instructions?
14:25:57 5
14:25:58 6 COMMISSIONER: That's what the Commission's position is,
14:26:01 7 Mr Collinson, so you're no worse off than the Commission.
8
9 MR COLLINSON: Yes, Commissioner.
10
14:26:05 11 COMMISSIONER: It is ridiculous.
14:26:07 12
14:26:08 13 MR CHETTLE: It gets worse, Commissioner. I wasn't going
14:26:11 14 to make this whinge but I get told at lunchtime Kelly is
14:26:15 15 coming. The police are asked whether or not I can have the
14:26:19 16 statement and the response is, "We'll get instructions".
14:26:22 17 This is the redacted statement. Now - - -
14:26:25 18
14:26:25 19 COMMISSIONER: I think the redacted statement, I thought
14:26:28 20 the agreement with Victoria Police is once the statement is
14:26:32 21 redacted then it is - the Commission is able to provide
14:26:36 22 that to affected persons. So I think - - -
14:26:41 23
14:26:41 24 MR HANNEBERY: There's no problems with the redacted
14:26:43 25 statement.
14:26:44 26
14:26:44 27 COMMISSIONER: The Commission can give you a redacted
14:26:46 28 statement when we finish today.
14:26:49 29
14:26:49 30 MR CHETTLE: Right, okay.
14:26:50 31
14:26:50 32 COMMISSIONER: We can do that much for you.
14:26:52 33
14:26:52 34 MR CHETTLE: Thank you.
14:26:53 35
14:26:53 36 COMMISSIONER: Without breaking any of the - - -
14:26:59 37
14:26:59 38 MR CHETTLE: Can I come back to - - -
14:27:01 39
14:27:01 40 COMMISSIONER: - - - ongoing agreements we have trying to
14:27:03 41 get information out of Victoria Police.
14:27:05 42
14:27:08 43 MR CHETTLE: All right. I'll resist the temptation to
14:27:11 44 whinge further. My clients, as you know, have all wished
14:27:17 45 to give evidence from a remote facility. There was an
14:27:20 46 affidavit filed by my instructing solicitor which you
14:27:24 47 received numbered and sealed. I haven't read the affidavit

14:27:27 1 of Mr Paterson but I understand that his affidavit covers
14:27:32 2 similar concerns. The proposal that I have for you,
14:27:37 3 Commissioner, is that each of my clients should give
14:27:39 4 evidence from a remote facility where they will not be
14:27:45 5 visible to anyone other than you. And I'm told from the
14:27:49 6 technical side of things that it's possible to have a
14:27:54 7 remote facility, there will just be a blank screen up there
14:27:57 8 and we'll get the audio. But you, Commissioner, on that
14:28:01 9 screen can see the witness. So that would enable you,
14:28:04 10 which is important, to see what's happening, to see the
14:28:06 11 witnesses. Now, there are security reasons for that and
14:28:12 12 they're set out in the affidavit of my instructing
14:28:14 13 solicitor and don't need to be repeated here. We don't
14:28:17 14 know who will be in the Tribunal and there are real issues
14:28:21 15 in people being able to identify visually my clients, which
14:28:26 16 is why you made the order you have about their images. But
14:28:31 17 the more practical - there's another practical and perhaps
14:28:35 18 even more compelling reason. I personally cannot see how
14:28:40 19 my clients can give meaningful evidence to you without
14:28:44 20 having with them the unredacted ICRs, access to the
14:28:50 21 Loricated database, access to their diaries, which is - in
14:28:54 22 fact most of them are on the Loricated database but not
14:28:59 23 all, and access to the IRs and they will have the logs, the
14:29:03 24 source management logs. At the moment I have full access
14:29:08 25 and they have full access to all of those documents.
14:29:10 26 There's not a problem with my clients and their legal team
14:29:15 27 having access to all of that but we're not allowed to take
14:29:17 28 it out of the building down at the police centre. My
14:29:21 29 proposal is that's where they should give their evidence
14:29:25 30 from, which would enable them to have with them in the room
14:29:27 31 all the things they need in order to answer your questions.
14:29:31 32 Now, whether that's in private or public is another issue
14:29:34 33 to be debated later, but they simply can't give evidence
14:29:39 34 without access to all these documents. There is a mass of
14:29:42 35 material, I can tell the Commissioner, I've been working on
14:29:45 36 it since February, and have not been able to read any more
14:29:49 37 than about 25 per cent of it. There is a mass of material.
14:29:55 38 They will be covering a broad range of issues and the
14:29:58 39 practical way to do it in my submission is as I put to you.
14:30:02 40 You have access to all the things they do. Counsel
14:30:06 41 assisting will have it and that will enable - - -

14:30:09 42
14:30:09 43 COMMISSIONER: We'll be able to get the documents up on the
14:30:12 44 screen, will we?

14:30:14 45
14:30:14 46 MR CHETTLE: Either on the screen or we'll all know what
14:30:18 47 we're looking at by number or name. How that is going to

14:30:22 1 work, because the difficulty is the Loricated numbering
14:30:25 2 system is different to the Victoria Police police numbering
14:30:28 3 system. The unit operate on ICR numbers, which is
14:30:33 4 something different again. I'm sure we will be able to
14:30:36 5 overcome that, we'll find a way to communicate, as it were,
14:30:42 6 with three separate communicative languages to put the
14:30:45 7 numbers together. I've got to say - but the issue of
14:30:48 8 whether those hearings are in public or private are wrapped
14:30:52 9 up in that. I do not see how, to redact and PII the ICRs,
14:31:00 10 although I'm told it's happening, I'll believe it when I
14:31:05 11 see it. I've seen them and my clients have done a bit of
14:31:09 12 it but it's huge and if you wait for that redacted material
14:31:12 13 I think we'll be waiting until Christmas. There is a mass
14:31:16 14 of it. That's the first thing. If it were a closed
14:31:20 15 hearing at least initially it would enable all the issues
14:31:23 16 you want to canvass to be canvassed.
14:31:26 17
14:31:26 18 COMMISSIONER: I don't know we should have this argument
14:31:29 19 about whether it's open or closed at this point.
14:31:31 20
14:31:31 21 MR CHETTLE: I'm happy to wait.
14:31:32 22
14:31:33 23 COMMISSIONER: I don't think the media has been informed.
14:31:35 24
25 MR CHETTLE: They do.
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27 COMMISSIONER: Are they here?
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14:31:36 29 MR CHETTLE: They've spoken to me about it this morning and
14:31:38 30 I can simply say they didn't seem to be that concerned
14:31:42 31 about it. I'm happy to put that off because the reality,
14:31:46 32 Commissioner, is that - - -
14:31:47 33
14:31:48 34 COMMISSIONER: My preference is that we'd start in open
14:31:51 35 hearing and then go into closed.
14:31:53 36
14:31:53 37 MR CHETTLE: Yes, that's your preference but my submission
14:31:56 38 is you'll find that within five minutes nothing happens. I
14:31:59 39 don't know how I can have, I certainly can't have an open
14:32:04 40 court with the documents I referred to before.
14:32:06 41
14:32:06 42 COMMISSIONER: They can at least been sworn or affirmed in
14:32:10 43 open court.
14:32:11 44
14:32:11 45 MR CHETTLE: Then we'll see where we go.
14:32:15 46
14:32:11 47 COMMISSIONER: Then we'll see where we go.

14:32:16 1
14:32:16 2 MR CHETTLE: But at the moment I've asked my - - -
14:32:18 3
14:32:18 4 COMMISSIONER: Open hearing, I should say, old habits die
14:32:22 5 hard.
14:32:22 6
14:32:23 7 MR CHETTLE: Mr Bourne and Mr Curry are making inquiries
14:32:26 8 with the hierarchy as we speak about the technical
14:32:29 9 facilities.
14:32:30 10
14:32:30 11 COMMISSIONER: That's my next question.
14:32:31 12
14:32:32 13 MR CHETTLE: That's what I'm working on because it just
14:32:32 14 can't happen in a vacuum and I won't do anything without
14:32:35 15 your say so, but it seemed to me prudent to make inquiries
14:32:38 16 about this.
14:32:39 17
14:32:40 18 COMMISSIONER: Certainly make inquiries about it. That's
14:32:42 19 what I was going to ask you, how will this - there'll need
14:32:42 20 to be a video link there and is there a video link?
14:32:46 21
14:32:47 22 MR CHETTLE: There is facilities down there I'm told,
14:32:49 23 there's big rooms, little rooms. I want to get one that
14:32:52 24 works and they can have access to all the material without
14:32:56 25 all the security issues that go with it.
14:32:58 26
14:32:59 27 COMMISSIONER: Will someone from the Commission need to go
14:33:01 28 down and set it up?
14:33:04 29
14:33:04 30 MR CHETTLE: I doubt it. I think we'll be able to set it
14:33:06 31 up so that it works well before - and the reason I ask for
14:33:08 32 you to be able to see it is you'll be able to be satisfied
14:33:11 33 to see the witness and know what's occurring in the room.
14:33:14 34 There won't be a need for anybody from here to be down in
14:33:19 35 the room with them. But there may be a need, and this is a
14:33:23 36 practical issue, for one of my clients to be present -
14:33:26 37 operation of the system and how it all works is not
14:33:29 38 something that everybody is good at. You raised it once
14:33:35 39 before, who should go first? Mr Bourne is the man who
14:33:40 40 seems to be the expert in the way the Loricated system
14:33:42 41 works. Others are less expert and their counsel have no
14:33:46 42 idea how it works. So can I ask, Commissioner, then that
14:33:51 43 you give consideration to ordering that my clients give
14:33:54 44 evidence from a remote facility, that steps be taken to
14:33:59 45 facilitate the logistics of that and we'll reserve for
14:34:05 46 another day whether or not that's in private or public, or
14:34:09 47 a mixture of both is ultimately what I would submit would

14:34:14 1 be appropriate. And I don't think, from my discussions
14:34:17 2 with all the counsel, anybody has an issue with what I've
14:34:22 3 just put.
14:34:22 4
14:34:22 5 COMMISSIONER: Does anybody want to say anything in
14:34:24 6 relation to this? Mr Winneke?
14:34:27 7
14:34:27 8 MR WINNEKE: Commissioner, I'm not sure whether Mr Chettle
14:34:31 9 is asking you to make the order immediately. I wouldn't
14:34:35 10 mind reviewing Mr Hargreaves' affidavit before I make a
14:34:38 11 submission about that. Obviously there's sense in what's
14:34:40 12 suggested.
14:34:41 13
14:34:41 14 COMMISSIONER: We have to know that there is a remote
14:34:44 15 facility that is appropriate at the police centre where
14:34:52 16 this material is held. You would think there would be.
14:34:55 17
14:34:55 18 MR WINNEKE: You would think so.
14:34:56 19
14:34:56 20 COMMISSIONER: We need that to be confirmed, no doubt
14:34:58 21 Mr Hannebery can assist in that respect.
14:35:01 22
14:35:02 23 MR WINNEKE: Yes, I would assume so. If I can perhaps have
14:35:03 24 the opportunity to review Mr Hargreaves' affidavit. It
14:35:06 25 does seem to me with respect to be sensible, assuming, as
14:35:10 26 we certainly must at this stage, that police officers who
14:35:13 27 are handlers or who have been handlers oughtn't ever be
14:35:21 28 identified. I take it with a grain of salt at the moment
14:35:23 29 but nonetheless if I could return to Mr Hargreaves'
14:35:27 30 affidavit I'll make some submissions about that in due
14:35:30 31 course.
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14:35:31 33 MR CHETTLE: And Mr Paterson's.
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14:35:33 35 MR WINNEKE: And Mr Paterson's affidavit.
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14:35:35 37 MR HANNEBERY: Commissioner, I don't conceptually have a
14:35:37 38 problem with what's been suggested. Obviously though,
14:35:41 39 given the nature of the material that will be conveyed on
14:35:45 40 the remote link, the security of that link and the
14:35:47 41 facilities surrounding that are going to be crucial to
14:35:50 42 establish before we commence. But that's something in the
14:35:54 43 logistics.
14:35:55 44
14:35:56 45 COMMISSIONER: Mr Chettle has raised it well ahead so there
14:35:58 46 shouldn't be any problem doing that. We're not talking
14:36:02 47 about, we're talking about 22 July, so there's plenty of

14:36:06 1 time.
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14:36:07 3 MR CHETTLE: I'll follow up on the security aspect as well.
14:36:09 4
14:36:09 5 COMMISSIONER: Does anybody else want to be heard on that?
14:36:11 6 No, all right then. I'm not making any order today but
14:36:16 7 I'll hear further submissions. We'll probably need to do
14:36:21 8 that some time late next week, at the end of these
14:36:25 9 hearings.
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14:36:25 11 MR WINNEKE: Yes, Commissioner.
14:36:26 12
14:36:26 13 COMMISSIONER: So we know where we're going with that.
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14:36:30 15 MR CHETTLE: Commissioner, there is some other matter I
14:36:31 16 should inform you of. You made reference before of
14:36:34 17 redacting the SDU statements which the Commission has got.
14:36:38 18 Each of them are making second statements which will be
14:36:40 19 extensive. So because of time limits they answered the
14:36:45 20 questions they were asked but the last question says, "Do
14:36:48 21 you want to say anything else" and they do, and they won't
14:36:52 22 be done before the end of this month. I'll try and get
14:36:57 23 them done quicker but the reality is they will be lucky to
14:37:01 24 be done by the end of the month. I just inform you of
14:37:03 25 that.
14:37:03 26
14:37:03 27 MR WINNEKE: I wonder if I could ask Mr Chettle to ask his
14:37:07 28 clients to give some thought to whilst they're making those
14:37:12 29 statements to redacting them to assist in that process.
14:37:15 30
14:37:15 31 MR CHETTLE: They do redact in relation to names and
14:37:19 32 Exhibit 81, they are doing all that.
14:37:23 33
14:37:23 34 MR WINNEKE: If that's being done that would certainly make
14:37:27 35 it easier for the police to undertake their task so as we
14:37:32 36 can get them to the appropriate parties by 8 July. One of
14:37:37 37 the matters that has been brought to my attention as it
14:37:43 38 relates to Mr Kelly, one of the potentially affected
14:37:47 39 persons Mr Orman has sought leave to appear in that, with
14:37:53 40 respect to that witness. Obviously bearing in mind
14:37:57 41 Mr Hill's application or foreshadowed application that
14:38:01 42 might make it difficult for - it might mean that Mr Hill
14:38:08 43 will want to get on his skates faster than he would
14:38:12 44 otherwise. As things stand at present it would be our
14:38:15 45 anticipation to permit affected persons or potentially
14:38:18 46 affected persons to participate.
14:38:20 47

14:38:21 1 COMMISSIONER: He has counsel of course.
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14:38:23 3 MR WINNEKE: He does. He does. In any event I thought I
14:38:27 4 better raise that. It's an important matter as far as
14:38:32 5 Mr Orman is concerned.
14:38:33 6
14:38:33 7 COMMISSIONER: His counsel will be informed of Mr Kelly's
14:38:36 8 appearance or has been already?
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14:38:39 10 MR WINNEKE: I'm not sure about that. He'll be informed.
14:38:39 11
14:38:40 12 COMMISSIONER: I would expect his counsel would be here.
13
14:38:43 14 MR WINNEKE: Yes.
14:38:43 15
14:38:43 16 COMMISSIONER: In terms of the draft affidavit that I saw,
14:38:49 17 the unsigned statement.
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14:38:51 19 MR WINNEKE: Yes.
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14:38:54 21 COMMISSIONER: There didn't seem to be any problem in
14:38:56 22 respect of lawyers appearing. Mr Hill?
14:38:59 23
14:39:00 24 MR HILL: Yes, that's right.
14:39:02 25
14:39:02 26 COMMISSIONER: That's right. So there's no problem.
14:39:04 27
14:39:04 28 MR WINNEKE: No.
14:39:05 29
14:39:06 30 COMMISSIONER: The terms, the way the letter was written by
14:39:09 31 the State in their objection was, suggested that the
14:39:13 32 objection was to the lawyers having leave to appear. It
14:39:18 33 wasn't stated - - -
14:39:20 34
14:39:21 35 MR WINNEKE: That would be surprising.
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14:39:22 37 COMMISSIONER: I know, that's why I was surprised from the
14:39:24 38 start. But as I've now read the affidavit that doesn't
14:39:27 39 seem to be the objection, the objection seems to be to the
14:39:31 40 affected persons who are in custody either appearing in
14:39:35 41 person or being - - -
14:39:39 42
14:39:39 43 MR WINNEKE: Viewing the material on the screen.
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14:39:41 45 COMMISSIONER: That seems to be the difficulty.
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14:39:43 47 MR HILL: Can I clarify what the State's position is. One

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of the objections or the concerns is about the live streaming.

COMMISSIONER: Yes.

MR HILL: For the affected persons themselves. There's a distinct concern about their lawyers being able to cross-examine witnesses directly. So there's those two issues.

COMMISSIONER: You might have to be prepared to argue that tomorrow morning.

MR HILL: I understand.

COMMISSIONER: In respect of Mr Orman. All right. If there's nothing further we'll adjourn until ten o'clock tomorrow.

ADJOURNED UNTIL WEDNESDAY 19 JUNE 2019