

ROYAL COMMISSION INTO THE MANAGEMENT
OF POLICE INFORMANTS

Held in Melbourne, Victoria

On Wednesday, 19 June 2019

Led by Commissioner: The Honourable Margaret McMurdo AC

Also Present

Counsel Assisting: Mr C. Winneke QC
 Mr A. Woods
 Ms M. Tittensor

Counsel for Victoria Police Mr 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 Handlers Mr G. Chettle
 Ms L. Theis

10:21:41 1 COMMISSIONER: Yes Mr Woods.
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10:21:43 3 MR WOODS: Commissioner, this morning - - -
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10:21:45 5 COMMISSIONER: We'll just take appearances first.
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10:21:48 7 MR WOODS: Yes. I appear with my learned friends, as of
10:21:51 8 the last few days.
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10 10 COMMISSIONER: Thank you.
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10:21:53 12 MR COLLINSON: I'm with Mr Nathwani for Ms Gobbo.
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15 COMMISSIONER: Thanks Mr Collinson.
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10:21:57 17 MR HANNEBERY: I appear with Ms Argiropoulos on behalf of
10:21:59 18 Victoria Police.
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10:22:00 20 COMMISSIONER: Thanks Mr Hannebery.
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10:22:01 22 MR HILL: Mr Hill, I appear for the State.
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10:22:03 24 COMMISSIONER: Thanks Mr Hill.
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10:22:03 26 MR CHETTLE: I'm here for the handlers, Commissioner.
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10:22:06 28 COMMISSIONER: Thanks Mr Chettle.
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10:22:08 30 MR DOYLE: I appear for the DPP and the OPP, Commissioner.
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10:22:12 32 COMMISSIONER: Mr Doyle, thank you. Yes Mr Woods.
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10:22:14 34 MR WOODS: Commissioner, there are redactions that are
10:22:15 35 claimed in relation to documents that have been tendered in
10:22:19 36 previous hearings that are still outstanding from the point
10:22:22 37 of view that they've been claimed redactions by Victoria
10:22:24 38 Police. The Commission has asked for justification for
10:22:28 39 those claims. The Commission has received some submissions
10:22:32 40 and it's been requested that an individual from Victoria
10:22:37 41 Police attend and provide evidence in relation to those
10:22:41 42 redaction claims. And what I'm suggesting is that that can
10:22:45 43 happen first off this morning. There's an application by
10:22:50 44 Victoria Police that happen in a closed session. I'm not
10:22:53 45 sure whether that includes all other parties outside the
10:22:57 46 hearing room or just some. But it's certainly appropriate
10:23:01 47 that it should happen in a private session, it's just a

10:23:04 1 question of who can be at the Bar table.
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10:23:08 3 COMMISSIONER: Yes Ms Argiropoulos.
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10:23:09 5 MS ARGIROPOULOS: Commissioner, I'll be dealing with that
10:23:11 6 application on behalf of Victoria Police. Our application
10:23:14 7 would be that the matter be heard in closed hearing with
10:23:18 8 only counsel assisting and legal representatives for
10:23:22 9 Victoria Police present. They're PII claims which no other
10:23:30 10 parties seated at the Bar table have any need to be
10:23:33 11 involved in and certainly some of the evidence which the
10:23:39 12 witness to be called will go into makes it appropriate that
10:23:44 13 only counsel assisting and legal representatives for
10:23:49 14 Victoria Police remain present.
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10:23:53 16 COMMISSIONER: And what about the media?
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10:23:57 18 MS ARGIROPOULOS: It would not be appropriate in my
10:23:59 19 submission for the media to be present to hear the evidence
10:24:02 20 in relation to these matters or the submissions.
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10:24:08 22 COMMISSIONER: Even with a non-publication order?
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10:24:14 24 MS ARGIROPOULOS: Yes, that would be the submission of
10:24:15 25 Victoria Police, that's right.
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10:24:17 27 COMMISSIONER: All right.
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10:24:19 29 MR COLLINSON: Commissioner, can I raise a matter?
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10:24:20 31 COMMISSIONER: Yes, I'm going to ask if there are any
10:24:22 32 alternative submissions. Ms Argiropoulos, had you finished
10:24:25 33 your submission?
10:24:26 34
10:24:26 35 MS ARGIROPOULOS: I was just going to add one last thing
10:24:29 36 and that is if the Commissioner was minded to provide a
10:24:32 37 ruling in a form which was able to be heard by media
10:24:35 38 representatives, that may be something that could be done,
10:24:39 39 but obviously there's aspects of the evidence which there
10:24:43 40 would be concern about being dealt with in front of the
10:24:47 41 media. I trust the Commissioner would be able to deal with
10:24:49 42 that in an appropriate way for the purposes of
10:24:52 43 communicating any decision in a way that is transparent to
10:25:01 44 others who are interested.
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10:25:01 46 COMMISSIONER: Yes. Yes Mr Collinson.
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10:25:04 1 MR COLLINSON: Commissioner, so far as counsel for Ms Gobbo
10:25:06 2 is concerned we would say there's not the slightest
10:25:10 3 foundation for those counsel to be out of the room while
10:25:13 4 this debate is had. I have in front of me, as given to me
10:25:18 5 by counsel for Victoria Police, an unredacted copy of
10:25:23 6 Mr Kelly's statement so we already have all this.
10:25:26 7
10:25:27 8 COMMISSIONER: There's a second statement, you see.
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10:25:29 10 MS ARGIROPOULOS: Sorry, Commissioner, I think we might be
10:25:31 11 at cross-purposes. This application relates to exhibits
10:25:35 12 which have already been tendered and not yet published on
10:25:39 13 the website. This particular application doesn't concern
10:25:43 14 the witness statement of Jason Kelly.
10:25:48 15
10:25:48 16 COMMISSIONER: I don't know whether Mr Collinson has the
10:25:50 17 second witness statement.
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10:25:52 19 MS ARGIROPOULOS: No. No parties, apart from counsel
10:25:56 20 assisting, would have access to that further statement
10:25:59 21 pending the making of orders which Victoria Police has
10:26:03 22 sought as outlined in the confidential affidavit.
10:26:06 23
10:26:06 24 COMMISSIONER: Could I just clarify that we're not dealing
10:26:08 25 with both of them together then, we're only dealing with
10:26:11 26 the exhibits, is that right?
10:26:12 27
10:26:13 28 MS ARGIROPOULOS: That's correct.
10:26:13 29
10:26:13 30 COMMISSIONER: Is that right, Mr Woods, we're just dealing
10:26:15 31 with the exhibits at this stage?
10:26:17 32
10:26:17 33 MR WOODS: That's correct, at this stage it's only the
10:26:19 34 exhibits.
10:26:20 35
10:26:20 36 MR COLLINSON: Commissioner, there's a broader point here,
10:26:23 37 which is, as I said yesterday, we have freely offered an
10:26:27 38 undertaking not to disclose anything we see to anybody and
10:26:31 39 we have full and unfettered access to all sorts of highly
10:26:35 40 sensitive material at the police premises where we're being
10:26:41 41 given to access to computerised material and hard copy
10:26:44 42 material. So there isn't any reason, with respect, for
10:26:48 43 counsel assisting, appearing for Ms Gobbo to be not
10:26:53 44 present. There's a broader point here and I just want to
10:26:56 45 foreshadow it now. It's reached the point where we're
10:27:00 46 really a bit fed up in our camp and we're wanting to apply
10:27:05 47 for a direction from the Commission that as materials are

10:27:09 1 given by Victoria Police to the solicitor assisting the
10:27:14 2 Royal Commission, they be provided concurrently to
10:27:17 3 Ms Gobbo's counsel on the same undertaking and we would
10:27:23 4 expect that that direction would also be appropriately made
10:27:28 5 to allow concurrent service upon counsel for the OPP, the
10:27:33 6 CDDP and the handlers. Now I'm just foreshadowing that
10:27:38 7 because it seems to be - - -

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10:27:40 9 COMMISSIONER: So you're not making that today?

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10:27:42 11 MR COLLINSON: I am making that today at a convenient
10:27:44 12 interval. I don't mean to interpose it ahead of Victoria
10:27:49 13 Police's present application but similar considerations
10:27:52 14 found both of our positions. If we as responsible members
10:27:56 15 of the Bar are giving that undertaking and have access, as
10:28:00 16 we already do, to this kind of material, there's no reason
10:28:05 17 why we should be excluded from the room while this debate
10:28:09 18 is had. That's our submission.

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10:28:12 20 COMMISSIONER: All right. I think we'll deal with one
10:28:14 21 thing at a time. I think we'll just deal with the exhibits
10:28:19 22 application at the moment.

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10:28:22 24 MR WOODS: Commissioner, certainly counsel assisting's
10:28:29 25 submission is Ms Gobbo's team should be allowed in the room
10:28:32 26 for that discussion, because all of these documents touch
10:28:36 27 on her interests in one way or another so that must be the
10:28:39 28 case, and as to the other issue we might deal with that one
10:28:42 29 later. What I should say, our expectation is generally
10:28:46 30 that should occur, they should be provided to Ms Gobbo's -
10:28:51 31 - -

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10:28:52 33 COMMISSIONER: The only difficulty is we're trying to
10:28:55 34 develop a special relationship between the Commission and
10:28:57 35 the Victoria Police so we can get unredacted documents
10:29:01 36 given to the Commission. Now, if we're going to get those
10:29:03 37 unredacted documents I don't really think they should be
10:29:06 38 spread widely. That's a special relationship between the
10:29:09 39 Commission. Certainly once the documents are in a form
10:29:12 40 that can be given to the parties then certainly they should
10:29:16 41 be given to the other parties, but there may be some issues
10:29:20 42 with the raw documents that are being provided to the
10:29:28 43 Commission.

10:29:28 44
10:29:28 45 MR WOODS: If it were to slow down that process we would
10:29:32 46 have an issue.

10:29:32 47

10:29:33 1 COMMISSIONER: Exactly.
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10:29:35 3 MR WOODS: But we certainly don't agree with there being a
10:29:38 4 blanket rule that they are provided immediately but there
10:29:41 5 should be the expectation unless there's something
10:29:46 6 exceptional in the document that it's not.
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8 MR COLLINSON: The practical difficulty we're having,
10:29:46 9 Commissioner, is - - -
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10:29:47 11 COMMISSIONER: Could we just deal with the exhibits for the
10:29:50 12 moment?
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14 MR COLLINSON: Yes.
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10:29:50 16 COMMISSIONER: Thank you. Did anybody else have any
10:29:53 17 application to make about whether they should be present or
10:29:56 18 excluded for the discussion about the exhibits?
10:29:58 19
10:29:59 20 MR CHETTLE: Exhibits to what, Commissioner? I'm not quite
10:30:01 21 sure what we're talking about.
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10:30:03 23 COMMISSIONER: Mr Woods, can you tell us that?
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10:30:06 25 MR WOODS: These are documents that have been tendered over
10:30:09 26 the last few hearings and they range from Exhibit 83, and
10:30:15 27 not inclusive of all numbers, up to Exhibit 152. I'm happy
10:30:22 28 to give counsel for the handlers the numbers of the
10:30:26 29 documents that we're discussing but it might make the
10:30:31 30 Victoria Police's application to close the court futile if
10:30:35 31 I was to give the substance of the redactions that are
10:30:38 32 sought so it's difficult in that situation.
10:30:39 33
10:30:40 34 COMMISSIONER: Just the exhibit numbers would be helpful.
10:30:41 35
10:30:42 36 MR WOODS: Yes, so it's the ones under discussion are
10:30:45 37 Exhibit 8, 83, 84, 101, 110A, 111, 112, 113, 119B, 120,
10:31:11 38 127, 128, 133, 134, 144, 151 and 152.
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10:31:32 40 MS ARGIROPOULOS: Can I indicate the submission that has
10:31:34 41 been filed and the evidence that will be adduced this
10:31:37 42 morning relates to ten exhibits only, not all of those.
10:31:40 43 I'm certainly happy to address the Commission in relation
10:31:43 44 to all of the exhibits that my friend has identified but
10:31:46 45 many of those - - -
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10:31:47 47 COMMISSIONER: Which are the ten that you say that's

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relevant to?

MS ARGIROPOULOS: Yes, I can read them aloud, they are the ones that are described in the submission. Exhibit RC83, 84, 111, 112, 113, 120, 127, 128, 133 and 134. These are, as my learned friend Mr Woods has identified, exhibits that have all been tendered before this Commission. So parties have had access to these exhibits already. However, the basis of the claim requires evidence to be adduced by Victoria Police of matters which cannot be dealt with in a public way and cannot be dealt with in front of other persons, and there are legislative prohibitions on that occurring which I won't detail further in public but that's the basis for the application that this be dealt with in closed hearing and only with counsel assisting and Victoria Police legal representation present.

COMMISSIONER: Are there any other applications to remain present?

MR DOYLE: The application to remain, Commissioner, I'm in the Commission's hands. It would be a rare kind of case in which counsel for the DPP or OPP would be excluded from a hearing of that kind but I'm not in a position to contradict Ms Argiropoulos's assertion that this is that kind of case.

MR HILL: Commissioner, the Commission is aware under the PII protocol the State has a role in mediating any disputes between the police and counsel assisting. There may be some benefit in State's counsel being present in my submission.

COMMISSIONER: Mr Woods?

MR WOODS: Ultimately PII is something held by the State in any event, so it would be extraordinary if they weren't allowed to attend and at least observe. So, look, in the circumstances my submission is that Ms Gobbo's counsel should be allowed to remain, as should the State, as should the OPP and the handlers, having given appropriate undertakings, the same.

COMMISSIONER: And the media?

MR WOODS: Given the sensitivity of some of the issues I'm not advocating for the media to stay in for this part of

10:34:49 1 it, it should be relatively brief, and then we'll open the
10:34:52 2 hearing quickly afterwards for the next part of the
10:34:55 3 evidence.
10:34:55 4
10:34:55 5 COMMISSIONER: From what Ms Argiropoulos has said it's only
10:34:58 6 for the discussion about the exhibits that she's nominated.
10:35:01 7
10:35:01 8 MR WOODS: Yes.
10:35:01 9
10:35:01 10 COMMISSIONER: And then after that the media could be
10:35:03 11 present for the discussion about the - - -
10:35:05 12
10:35:05 13 MR WOODS: There wouldn't be discussion about those, the
10:35:07 14 balance of them because they are being dealt with through
10:35:10 15 other channels. These are simply ones where we have called
10:35:14 16 for evidence to be adduced to support the assertions of
10:35:19 17 PII. The others get dealt with through administrative
10:35:22 18 means.
10:35:22 19
10:35:23 20 COMMISSIONER: All right.
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10:35:24 22 MR WOODS: And some of them are with the Commission to make
10:35:26 23 a determination as well, so it's just those numbers that
10:35:29 24 Ms Argiropoulos has mentioned. With appropriate
10:35:31 25 undertakings being given by who aren't State parties it
10:35:36 26 would be appropriate in my submission they stay in the
10:35:38 27 hearing room for the evidence.
10:35:39 28
10:35:39 29 COMMISSIONER: I'm satisfied under the provisions of the
10:35:41 30 *Inquiries Act* that it's necessary to close the hearing to
10:35:45 31 deal with this application to all persons other than the
10:35:54 32 legal representatives presently at the Bar table, noting
10:35:58 33 the undertaking by Mr Collinson, and that there's to be no
10:36:04 34 publication of anything that happens within the closed
10:36:07 35 hearing. So the streaming will be stopped while we deal
10:36:12 36 with this hearing. Everybody other than the Commission
10:36:16 37 staff and legal team and the legal representatives
10:36:19 38 presently at the Bar table will have to leave the courtroom
10:36:22 39 - - -
10:36:22 40
10:36:22 41 MR WOODS: Commissioner, just before the stream is stopped,
10:36:24 42 for those watching the live stream I might just indicate
10:36:27 43 the running sheet for the rest of the day. Once these
10:36:29 44 issues are dealt with it's expected that Mr Kelly will
10:36:33 45 attend to give evidence. That will occur in open hearing.
10:36:38 46 Following that there's an application to be made by the
10:36:41 47 State which we think will happen at 2 pm, hopefully

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Mr Kelly's evidence is concluded by then. And as I understand it that will also be an open hearing. So however long this part of it takes, it will be closed, but then we'll open for Mr Kelly's evidence.

COMMISSIONER: Thank you.

(IN CAMERA HEARING FOLLOWS)

13:56:23 1 UPON RESUMING AT 2.09 PM:
14:09:14 2
14:09:14 3 COMMISSIONER: Yes. I think there are a number of new
14:09:18 4 appearances here for this matter. So I'll have your
14:09:22 5 appearances, Mr Winneke.
14:09:25 6
14:09:25 7 MR WINNEKE: Yes.
14:09:26 8
14:09:26 9 COMMISSIONER: Mr Collinson, Mr Hannebery and team,
14:09:37 10 Mr Hill, Mr Chettle, Mr Doyle and there are some further
14:09:44 11 appearances, I understand.
14:09:46 12
14:09:47 13 MR MAIDMENT: Maidment for Antonios Mokbel.
14:09:50 14
14:09:51 15 COMMISSIONER: Yes, thanks Mr Maidment.
14:09:52 16
14:09:53 17 MR WAREHAM: Wareham for Mr Barbaro.
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14:09:54 19 COMMISSIONER: Mr Wareham.
14:09:55 20
14:09:56 21 MS GARDE-WILSON: Garde-Wilson for Karam and Illic.
22
14:10:01 23 COMMISSIONER: Thanks Ms Garde-Wilson.
14:10:01 24
14:10:02 25 MS PARKER: Ms Parker for Mr Orman.
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14:10:10 27 COMMISSIONER: Thank you.
14:10:10 28
14:10:11 29 MR ANTOS: I seek leave to appear for Mr Goussis.
14:10:14 30
14:10:14 31 COMMISSIONER: You are Mr Antos, is that right?
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14:10:16 33 MR ANTOS: I am.
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14:10:17 35 COMMISSIONER: Thank you.
14:10:19 36
14:10:21 37 MR TERZIOVSKI: Mr Terziovski for Mr Zirilli.
14:10:25 38
14:10:26 39 COMMISSIONER: Thank you Mr Terziovski. Is that everyone?
14:10:28 40 No, one more?
14:10:30 41
14:10:30 42 MR CONDELLO: Mr Condello for Mr Agresta and Mr Madafferì.
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14:10:35 44 COMMISSIONER: Thank you. Yes, Mr Hill.
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14:10:40 46 MR HILL: Commissioner, as the Commission knows the State
14:10:46 47 sent an email to the Commission before the last directions

14:10:49 1 hearing just outlining that it might have concerns about
14:10:53 2 affected persons being given leave to cross-examine. So we
14:10:57 3 have filed submissions setting out the nature of the
14:11:00 4 State's concerns. We're not seeking any orders from the
14:11:04 5 Commission today. We're content for these concerns to be
14:11:07 6 put and to be addressed as the Commission sees fit as the
14:11:11 7 issue arises.
14:11:13 8
14:11:13 9 COMMISSIONER: All right. The submissions will be Exhibit
14:11:19 10 1.
14:11:19 11
14:11:21 12 #EXHIBIT 1 - Submissions.
14:11:23 13
14:11:24 14 COMMISSIONER: And copies are to be provided to each of the
14:11:26 15 affected parties. Did you want to say anything,
14:11:30 16 Mr Winneke?
14:11:31 17
14:11:33 18 MR WINNEKE: Just this, Commissioner. In due course when
14:11:40 19 applicants for leave to cross-examine wish to make
14:11:44 20 application, they will consult the Royal Commission's
14:11:48 21 website and look at the Practice Note and they will make
14:11:51 22 application in relation to each witness and set out areas
14:11:54 23 in which they wish to cross-examine a witness, reasons that
14:11:59 24 they wish to do so. Those matters will be taken into
14:12:03 25 consideration with the submissions which have been made by
14:12:07 26 the State, which effectively suggest they oughtn't be given
14:12:10 27 leave to cross-examine, but obviously those matters will be
14:12:14 28 taken into consideration and the Commissioner will in each
14:12:16 29 case form a view as to whether or not leave ought be
14:12:21 30 granted. In our view it certainly would be at this stage
14:12:24 31 premature to be making any orders about whether or not
14:12:27 32 people should or shouldn't be given leave to cross-examine
14:12:31 33 and as I understand it Mr Hill in effect concedes that.
14:12:34 34
14:12:34 35 COMMISSIONER: Yes, all right. In the light of that
14:12:35 36 concession, is there anything else anybody wants to say at
14:12:39 37 this stage? I will direct that the submissions of the
14:12:46 38 State, copies of their submissions be given to each of the
14:12:49 39 affected parties before they leave the Commission today.
14:12:51 40
14:12:52 41 MR WINNEKE: If it please the Commissioner.
14:12:53 42
14:12:53 43 COMMISSIONER: I think Commission staff will organise that.
14:12:57 44 All right then. I'm sorry so many people have been called
14:13:01 45 down for what didn't turn out to be a very lengthy hearing,
14:13:04 46 but I think it was important that it be aired at this
14:13:08 47 point.

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14:13:09 2 MR WINNEKE: It does enable us to get on with calling some
14:13:13 3 evidence which Mr Woods proposes to do, Commissioner, and
14:13:18 4 if we can do that, that would be good.
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14:13:20 6 COMMISSIONER: Thank you.
14:13:21 7
14:13:21 8 MR WINNEKE: Thank you.
14:13:22 9
14:13:22 10 COMMISSIONER: Yes Mr Woods.
14:13:24 11
14:13:26 12 MR WOODS: Thank you. The next witness, Commissioner, is
14:13:42 13 Jason Peter Kelly. I assume Mr Kelly is on his way in.
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14:15:19 15 MS ARGIROPOULOS: I apologise for keeping the Commissioner
14:15:22 16 waiting. The witness is just in a room that's some
14:15:25 17 distance from the court so he's just making his way down.
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14:15:29 19 COMMISSIONER: Thank you. Yes, oath or affirmation,
14:16:47 20 Mr Kelly?---Oath, please.
14:16:49 21
14:16:49 22 Yes, swear the witness.
14:16:51 23
14:16:56 24 <JASON KELLY, sworn and examined:
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14:17:17 26 MS ARGIROPOULOS: Mr Kelly, could you tell the Commissioner
14:17:20 27 your full name, please?---Jason Peter Kelly.
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14:17:25 29 And are you currently employed by Victoria
14:17:28 30 Police?---Correct.
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14:17:29 32 What's your rank and work location?---My rank is
14:17:33 33 Superintendent, my work location is Information Systems
14:17:39 34 Security Command.
14:17:39 35
14:17:41 36 Mr Kelly, have you made a statement in relation to this
14:17:46 37 Royal Commission dated 12 June 2019?---Yes, I have.
14:17:52 38
14:17:52 39 If I could ask you to have a look at the document in front
14:17:56 40 of you. There's actually two copies of that statement. Do
14:17:59 41 you recognise one to be an unredacted statement which bears
14:18:05 42 your signature?---Correct.
14:18:09 43
14:18:09 44 And that's a statement dated 12 June 2019?---Yes, it is.
14:18:13 45
14:18:13 46 Do you have a copy in front of you there which has some
14:18:16 47 redactions on it?---Yes, I do.

14:18:19 1
14:18:20 2 Commissioner, I'd seek to tender the original and the
14:18:23 3 redacted version of Mr Kelly's statement.
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14:18:27 5 #EXHIBIT RC234A - Original statement of Jason Kelly.
14:18:33 6
14:18:37 7 #EXHIBIT RC234B - Redacted statement of Jason Kelly.
14:18:41 8
14:18:42 9 COMMISSIONER: Yes Mr Woods.
14:18:43 10
11 <CROSS-EXAMINED BY MR WOODS:
12
14:18:44 13 Mr Kelly, you joined Victoria Police in 1993?---Yes, I did.
14:18:48 14
14:18:48 15 Had you come straight out of school or did you do another
14:18:51 16 job in between?---I had another job in between, yes.
14:18:53 17
14:18:53 18 You were a couple of years out of school at that
14:18:57 19 stage?---That's correct.
14:18:57 20
14:18:57 21 You worked variously in those first years with the police
14:19:02 22 at Russell Street, City Watchhouse, Collingwood, Richmond
14:19:06 23 and some other locations, is that right?---That's correct,
14:19:09 24 yes.
14:19:09 25
14:19:10 26 In 98 to 2001 you were a Detective Senior Constable at the
14:19:16 27 Melbourne Criminal Investigation Unit?---Yes.
14:19:19 28
14:19:20 29 What did that role entail?---That was investigating crimes
14:19:25 30 committed in and around the Melbourne CBD and there was a
14:19:32 31 local investigator or Detective.
14:19:34 32
14:19:34 33 Was that organised crime or was it just street level issues
14:19:38 34 or what sort of issues?---I would not describe it as
14:19:42 35 organised crime, I'd describe it as street level, local
14:19:46 36 type assaults, burglary, street offences, sex offences.
14:19:52 37
14:19:52 38 Then in 2004 and 2005 you were at the MDID, MDIU it might
14:20:00 39 have been at that stage?---That's correct.
14:20:02 40
14:20:03 41 You left there for Purana in February of 2006?---Correct,
14:20:08 42 yes.
14:20:08 43
14:20:08 44 And currently you hold the rank of Superintendent and it's
14:20:13 45 in relation to Information Systems and Security
14:20:16 46 Command?---That's correct, yes.
14:20:17 47

14:20:17 1 Can I ask just some questions that might seem off topic but
14:20:23 2 are of particular interest certainly to me and perhaps the
14:20:28 3 Commission. The Information Systems and Security Command,
14:20:31 4 is that oversight of how information is handled within
14:20:36 5 Victoria Police?---The Command or my particular role in the
14:20:43 6 Command is around the modernisation of Victoria Police in
14:20:46 7 terms of technology and the rolling out of a number of
14:20:51 8 projects. So I'm not involved in the information
14:20:55 9 management of Victoria Police.
14:20:57 10
14:20:57 11 The rolling out of document management systems, does that
14:21:00 12 include a single document management system for use by
14:21:03 13 Victoria Police?---No.
14:21:07 14
14:21:07 15 Is that something that you understand is - the reason I'm
14:21:10 16 asking these questions, we've faced some difficulty from
14:21:14 17 time to time with there not being a central repository of
14:21:17 18 information, putting to one side that human source
14:21:19 19 information needs to be dealt with separately to other
14:21:23 20 information held by the police, I'm just interested in
14:21:26 21 whether, if it's not part of your role or not part of your
14:21:30 22 knowledge just say so, whether or not that's due for change
14:21:33 23 within Victoria Police?---I can indicate that one of our
14:21:38 24 current systems we have which you may know as Interpose,
14:21:43 25 one of the projects down the track is the replacement of
14:21:47 26 that Interpose system with a case management system that
14:21:51 27 will be more modern, user-friendly and perhaps address some
14:21:56 28 of the issues of the recording and storage of documents.
14:21:59 29
14:21:59 30 I see?---But I think I need to be cautious with my answer
14:22:05 31 in the sense that it's not a project I've had a lot to do
14:22:08 32 with and it's in its infancy and it's probably more of a
14:22:12 33 bit of dialogue at this stage rather than anything more
14:22:13 34 than that.
14:22:13 35
14:22:14 36 Right. Again, you may or may not know the answer to this,
14:22:16 37 but we've faced some difficulty in obtaining emails pre
14:22:20 38 2007. Is that something you're able to explain why that's
14:22:24 39 the case?---Certainly not, that's not my area of expertise,
14:22:27 40 no.
14:22:27 41
14:22:28 42 Indeed with your own emails you haven't been able to access
14:22:32 43 anything before 2007, is that right?---That's correct, I
14:22:34 44 haven't had any emails provided prior to 2007.
14:22:39 45
14:22:40 46 Your arrival at the MDID in 2004 was after the Dublin
14:22:45 47 Street burglary and after the murder of the Hodsons, that's

14:22:48 1 right, isn't it?---I believe so, yes.
14:22:51 2
14:22:53 3 So it then follows that Miechel and Dale were no longer at
14:22:57 4 the MDID when you arrived there?---Certainly not, no.
14:23:00 5
14:23:02 6 Did you have any, just prior to your commencement at
14:23:06 7 Purana, did you yourself have any experience in managing
14:23:10 8 human sources?---Yes, I did.
14:23:12 9
14:23:15 10 Were you aware of the policies and procedures that existed
14:23:18 11 at the time or are you as you sit here now aware of those
14:23:22 12 policies and procedures?---Yes, I would have been aware of
14:23:25 13 the policies and systems in place in that 2004 period I
14:23:30 14 think you're referring to.
14:23:31 15
14:23:31 16 Yes. What about prior to that, Russell Street, City
14:23:36 17 Watchhouse, were you using human sources in that period of
14:23:38 18 time as well?---That's when I was a fairly new Constable
14:23:42 19 and the answer to that is no, I was not involved in human
14:23:46 20 source management in those early days.
14:23:48 21
14:23:48 22 What about your time at Purana, I'm not talking about human
14:23:55 23 sources that were managed by the SDU, but rather did you
14:23:58 24 have any interaction, personal interaction with human
14:24:02 25 sources during your time at Purana?---Depends on your
14:24:09 26 definition of a human source. I suppose - - -
14:24:12 27
14:24:13 28 Let's break it up, firstly unregistered human sources,
14:24:17 29 people who are providing information but not becoming
14:24:19 30 witnesses?---Certainly there would have been occasions
14:24:22 31 during my period at Purana Task Force I spoke to persons
14:24:24 32 who provided information who were not a registered human
14:24:27 33 source.
14:24:27 34
14:24:28 35 And the second category of people who are registered human
14:24:31 36 sources but not necessarily within the SDU's, under the
14:24:34 37 SDU's umbrella, did you have contact - I'm not asking for
14:24:37 38 names or anything, just generally did you have contact with
14:24:40 39 some of those as well?---From recollection I believe any
14:24:47 40 sources that were registered, because of the high risk
14:24:51 41 nature of the work being conducted, would have been under
14:24:54 42 the control of the Source Development Unit.
14:24:57 43
14:24:58 44 You don't have any recollection of dealing with registered
14:25:02 45 human sources on a personal basis?---Not that I recollect.
14:25:05 46
14:25:06 47 The way that you came to be, came to join the Purana Task

14:25:11 1 Force was that Jim O'Brien personally approached you, is
14:25:14 2 that right?---That's correct.
14:25:14 3
14:25:15 4 That was in February 2006?---Would have been around that
14:25:20 5 period, yes.
14:25:21 6
14:25:23 7 It wasn't just you that came across at Jim O'Brien's
14:25:28 8 request, it was also the crew that you were working with at
14:25:31 9 the MDID?---That's correct, I was the Detective Sergeant in
14:25:35 10 a team of three investigators and they also came across and
14:25:40 11 transferred to the Purana Task Force.
14:25:42 12
14:25:42 13 What were the names of those individuals who were on your
14:25:45 14 crew at the beginning?---It was Detective Senior Constable
14:25:49 15 Hayden Beale, Detective Senior Constable Sean Martin and
14:25:53 16 Detective Senior Constable Tim Johns.
14:25:55 17
14:25:57 18 I take it that - tell me if I'm wrong, one of the reasons
14:26:02 19 you were approached was that the work that the MDID were
14:26:05 20 engaged in in relation to drug manufacturing and sales had
14:26:11 21 some significant cross over with the work that the Purana
14:26:14 22 Task Force were doing in relation to those same
14:26:18 23 issues?---The tasking was drug-related and due to the
14:26:24 24 team's experience, I suppose, of the previous 12 months or
14:26:28 25 so, I would suggest that's probably one of the reasons we
14:26:31 26 were asked to move into the Purana Task Force.
14:26:34 27
14:26:34 28 Indeed, I assume that some of the people that the MDID were
14:26:38 29 looking at were some of the same people that Purana Task
14:26:42 30 Force were looking at?---I would suggest that's probably
14:26:46 31 correct.
14:26:46 32
14:26:50 33 You explain in your statement that the focus as per your
14:26:56 34 tasking and briefing was to dismantle the established
14:27:01 35 Mokbel criminal network. Who was it that explained that
14:27:05 36 tasking and focus to you?---Detective Inspector O'Brien.
14:27:11 37
14:27:11 38 I take it that that was something that was explained to you
14:27:14 39 upon the request for you to come over and join the Purana
14:27:18 40 Task Force?---It certainly wasn't a detailed briefing but
14:27:21 41 it was a briefing enough to be told that it was the
14:27:25 42 dismantling of the Mokbel established criminal network.
14:27:30 43
14:27:33 44 Upon commencing with Purana in February 2006, were you
14:27:37 45 aware at that stage that about four and a half months
14:27:41 46 previously the SDU had registered Nicola Gobbo as a human
14:27:48 47 source?---Prior to my arrival at the Purana Task Force?

14:27:51 1
14:27:52 2 Prior to your arrival?---I had no knowledge.
14:27:54 3
14:27:56 4 Had you had any contact with Nicola Gobbo prior to your
14:27:59 5 commencement at Purana?---I don't believe so, unless it was
14:28:05 6 through a, a court case or something like that or - but not
14:28:10 7 that I recall.
14:28:11 8
14:28:12 9 Do you recall being aware when you were told, and we'll get
14:28:15 10 to that in a moment, which was shortly after your
14:28:18 11 commencement at Purana, do you recall when you were told
14:28:21 12 that Nicola Gobbo was providing information to the SDU that
14:28:24 13 you knew who that person was and had some familiarity with
14:28:28 14 her?---Yes, she was a person known to be from the legal
14:28:32 15 fraternity and I was aware of who she was, yes.
14:28:36 16
14:28:36 17 But perhaps hadn't met her at that stage?---If I had, I
14:28:41 18 don't have a recollection, and it would have been during
14:28:45 19 the course of a court case, but I don't have a recollection
14:28:48 20 of prior to 2006.
14:28:50 21
14:28:51 22 Just to ask, I want to ask a couple more questions about
14:28:54 23 that. The information available to the Commission is that
14:28:56 24 throughout the period, the early 2000s and into the
14:29:02 25 mid-2000s, Ms Gobbo was representing a number of
14:29:05 26 individuals who had been charged by members of the MDID and
14:29:09 27 she was frequently making bail applications, representing
14:29:14 28 them in subpoena applications, and that seems to have been
14:29:18 29 from what we're able to tell from the documents a fairly
14:29:22 30 regular occurrence. Just doing the best you can, can you
14:29:25 31 remember being involved in any of those issues while at the
14:29:27 32 MDID with Ms Gobbo?---I have a recollection of court cases
14:29:34 33 but I feel that they probably occurred more so in 2006
14:29:41 34 rather than prior to, but I could be wrong there in terms
14:29:44 35 of the specific dates.
14:29:46 36
14:29:49 37 But it was very soon after your commencement that it was -
14:29:56 38 was it Mr O'Brien who told you that Ms Gobbo was acting as
14:30:00 39 a human source?---Correct.
14:30:01 40
14:30:01 41 It was about March, so a month or so after you
14:30:05 42 commenced?---A number of weeks after I'd commenced, yes, as
14:30:09 43 per my statement.
14:30:10 44
14:30:13 45 Early on in your time at Purana you were conducting
14:30:20 46 surveillance on, and I can refer you to your statement if
14:30:24 47 that assists but I think you should be able to follow what

14:30:27 1 I'm saying, you were conducting surveillance on a
14:30:29 2 particular event with another officer?---Correct.
14:30:33 3
14:30:34 4 And are you able to tell me who that other officer
14:30:39 5 was?---It was Detective Senior Constable Sean Martin.
14:30:41 6
14:30:42 7 You'd been asked to go there I take it by those officers
14:30:47 8 who were in charge of you at the Purana Task Force?---It
14:30:53 9 was as a result of a discussion with Detective Inspector
14:30:58 10 O'Brien I was aware the event was to take place and I'm not
14:31:02 11 sure whether it was my suggestion that I cover that
14:31:05 12 particular event through physical surveillance or whether
14:31:08 13 Detective Inspector O'Brien requested me. It might have
14:31:11 14 been a combination of we were aware of the event coming up
14:31:15 15 and we wanted to cover it.
14:31:17 16
14:31:17 17 So you conducted surveillance I assume from a vehicle on
14:31:20 18 that occasion?---No.
14:31:22 19
14:31:23 20 So you were out of the vehicle and surveilling the site on
14:31:29 21 foot?---If I can say, we were conducting surveillance. I'm
14:31:36 22 not sure - - -
14:31:37 23
14:31:37 24 That's all right, you don't need to go on any further.
14:31:40 25 During you conducting that surveillance, the surveillance
14:31:43 26 was in relation to an individual who had some part to play
14:31:51 27 within the criminal underworld to do with drug
14:31:54 28 manufacturing and sales, is that right?---Correct.
14:31:56 29
14:32:00 30 While you were there, someone from the SDU contacted you,
14:32:07 31 is that right?---That's correct.
14:32:08 32
14:32:08 33 And did they contact you by mobile phone?---Yes, they did.
14:32:12 34
14:32:12 35 They said to you you needn't carry out surveillance on that
14:32:16 36 particular event, is that what they said?---Yes.
14:32:19 37
14:32:20 38 They said the reason you don't need to carry out
14:32:22 39 surveillance is "we've got someone inside"?---Correct.
14:32:25 40
14:32:25 41 Did they tell you who it was who was inside?---I don't
14:32:28 42 believe they did over the phone, it's probably not
14:32:31 43 something that we would discuss over the phone.
14:32:33 44
14:32:34 45 But in any event, you were told you didn't need to bother
14:32:38 46 essentially but you decided to continue with your
14:32:42 47 surveillance in any event, is that what occurred?---From

14:32:44 1 memory I consulted - after the conversation and consulting
14:32:49 2 with I believe on night Detective Inspector O'Brien and due
14:32:54 3 to the location of where we were conducting the
14:33:00 4 surveillance, we were comfortable that we could continue.
14:33:03 5
14:33:03 6 So you didn't - in fact you didn't accept what you were
14:33:07 7 told by the SDU and decided to continue with the
14:33:10 8 surveillance anyway?---It was in consultation with the SDU.
14:33:13 9
14:33:14 10 You went back to the SDU and said, "We're going to hang
14:33:17 11 around"?---Yeah, and that particular person you're
14:33:20 12 referring to was happy with that.
14:33:21 13
14:33:30 14 Just going back to where O'Brien first tells you in about
14:33:34 15 March that Nicola Gobbo was acting as a human source, I
14:33:37 16 assume you have an independent recollection of being told
14:33:42 17 that by O'Brien, is that right?---I don't have a clear
14:33:50 18 recollection but it was clear post what I suppose I'd
14:33:55 19 uncovered conducting that surveillance that, you know, I
14:33:58 20 was advised Nicola Gobbo was providing information.
14:34:03 21
14:34:04 22 Presumably that would have caused you some significant
14:34:09 23 surprise at the time, that a practising barrister was
14:34:11 24 providing information to Victoria Police?---Yes.
14:34:16 25
14:34:18 26 You talk about concerns about that fact later on in your
14:34:25 27 statement but I assume that those concerns would have
14:34:28 28 arisen in your mind at that stage too when you first found
14:34:31 29 out?---Well it was a unique situation, so yes.
14:34:37 30
14:34:38 31 Was there a close working relationship between the, we
14:34:44 32 don't have the exhibit in front of you but I'll write it
14:34:48 33 down on a piece of paper. There might be some flash cards
14:34:52 34 we've got. Sorry, you've got your statement in front of
14:34:56 35 you. So the person from the SDU, Jones, were you aware of
14:35:07 36 a close working relationship between Jones and O'Brien?---I
14:35:14 37 just need to clarify who Jones is and whether - - -
14:35:17 38
14:35:17 39 It should actually be named, I think he is named as Jones.
14:35:21 40
14:35:22 41 COMMISSIONER: We can give him a portion of Exhibit 81
14:35:24 42 which will have that on it, yes. Show the witness that.
14:35:36 43
14:35:36 44 MR WOODS: Look at paragraph 17 of your statement. That
14:35:38 45 might be the easiest?---Might I refer to my statement,
14:35:43 46 Commissioner?
14:35:43 47

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14:36:38 18
14:36:39 19
14:36:49 20
14:36:56 21
14:36:59 22
14:37:05 23
14:37:09 24
14:37:16 25
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14:37:40 34
14:37:45 35
14:37:49 36
14:37:55 37
14:38:00 38
14:38:03 39
14:38:07 40
14:38:11 41
14:38:11 42
14:38:15 43
14:38:17 44
14:38:18 45
14:38:22 46
14:38:25 47

COMMISSIONER: Yes, certainly. The card you've been given will give you the real name and the pseudonym?---Yes.

MR WOODS: Just for the record, I take it that in the putting together of your statement those who assisted you told you that DSS Jones was the name to be used for that particular individual?---Yes, now I'm aware of who you're talking, referring to, yes.

So that person known as DSS Jones, and Mr O'Brien, were you aware - I know later on you were because it's clear in your statement, but were you aware at that early stage of a close relationship between Mr O'Brien and DSS Jones?---I believe they'd previously worked together and, yes, there was a close working relationship that I observed over the course of that period.

Jim O'Brien told you when he first told you that Nicola Gobbo was providing information to Victoria Police, he told you that safeguards were in place firstly to prevent Nicola Gobbo being identified as a human source, is that something he told you?---As per my statement he indicated that there were processes and systems in place to protect her identity, like any other source that Victoria Police was controlling.

Did he explain to you there were processes in place in relation to the information, so putting her safety to one side, he explained that, but processes in place in regards to the information she was providing?---Correct.

And what did you understand that to mean?---Well at that particular period Victoria Police in the previous six months had introduced a pilot that was known as, I think it might have had a different name, but Dedicated Source Unit, and that best practice that had been identified internationally was to remove investigators from having hands-on contact with human sources.

Just pausing there, is this something you knew at the time?---As in this new practice?

When O'Brien first told you and you were surprised and O'Brien said there are safeguards in place in relation to her safety, for a start, and secondly in relation to the

14:38:29 1 information that she was providing, as you were receiving
14:38:32 2 that information from O'Brien did you understand all of
14:38:35 3 these background, the way the SDU was formed and set
14:38:39 4 up?---I certainly didn't have the intricate details of the
14:38:44 5 establishment of the SDU, but I effectively was advised
14:38:50 6 that the SDU were an established unit that would be
14:38:54 7 managing high risk human sources that Victoria Police
14:38:57 8 engaged.
14:38:58 9

14:39:02 10 Just so I understand. The reason that O'Brien explained
14:39:08 11 safeguards in these two particular regards to you, was I
14:39:12 12 assume because it was a highly unusual thing that was
14:39:15 13 occurring, is that right?---It was unique in the sense that
14:39:19 14 Ms Gobbo was a criminal barrister.
14:39:21 15

14:39:23 16 It was unique in the sense that both then and now you knew
14:39:28 17 that it was fraught with ethical problems as well?---I
14:39:35 18 think it was a scenario that required certainly a thorough
14:39:43 19 risk assessment and clearly had some dangers or some risks
14:39:47 20 attached to it.
14:39:49 21

14:39:49 22 Risks to information to be used in prosecutions?---Can you
14:39:54 23 explain what you mean?
14:39:56 24

14:39:56 25 You know, as I understand it, police are aware of the rules
14:40:01 26 regarding the propriety of obtaining of evidence, that
14:40:06 27 evidence can be improperly obtained or illegally obtained
14:40:10 28 and thereby not admissible in a prosecution, that's
14:40:13 29 something you would have known at that stage?---Yes.
14:40:14 30

14:40:15 31 You would have also known that the use of a barrister in
14:40:19 32 these situations posed, in the abstract at that stage, you
14:40:23 33 didn't know what information at this stage she was
14:40:26 34 providing, I assume, but in the abstract it was going to
14:40:28 35 pose some problems in relation to the sanctity of that
14:40:31 36 information that was being provided and the use down the
14:40:34 37 track in prosecutions?---Certainly the intelligence that
14:40:41 38 was provided, as with most intelligence, is not necessarily
14:40:45 39 used in an open court but there was certainly the issue
14:40:51 40 around obviously legal professional privilege and the
14:40:57 41 appropriateness of the information provided to myself as an
14:41:01 42 investigator through that sterile corridor that had been
14:41:04 43 established through the establishment of the Source
14:41:07 44 Development Unit.
14:41:07 45

14:41:09 46 But you do accept from what you've said that it was a
14:41:13 47 situation, a relationship that was fraught with ethical

14:41:16 1 problems? I'm not saying you knew they had been realised
14:41:21 2 at that stage, but one of the reasons you were surprised, I
14:41:24 3 take it, was that you knew it was a situation that was
14:41:27 4 fraught with ethical problems?---It certainly had some
14:41:30 5 challenges, yes.
14:41:31 6
14:41:31 7 Is that a yes or a no?---Yes, there were some challenges
14:41:36 8 there, yes.
14:41:37 9
14:41:40 10 And one of the challenges was the potential for a breach of
14:41:45 11 legal professional privilege from information that the
14:41:47 12 barrister was going to disclose to Victoria Police?---That
14:41:50 13 was certainly a risk, yes.
14:41:51 14
14:41:57 15 Are you aware that on 16 September 2005 when the two, the
14:42:12 16 two individuals from the SDU first met with Nicola Gobbo,
14:42:16 17 one of the first things they said to her was, "Tell me
14:42:19 18 everything you know about Tony Mokbel". Does that surprise
14:42:25 19 you?---I had no involvement in the recruitment or
14:42:28 20 discussions with Nicola Gobbo.
14:42:30 21
14:42:30 22 I understand that. Let's just take a step back. At the
14:42:35 23 stage that these individuals spoke to and recruited Nicola
14:42:40 24 Gobbo, it was known to them, and the Victoria Police
14:42:42 25 generally, and I'm not saying you in particular, but to
14:42:46 26 Victoria Police generally, that Tony Mokbel was a client,
14:42:49 27 an ongoing client of Nicola Gobbo's at that stage. So you
14:42:53 28 accept that that was the state of affairs on 16 September
14:42:55 29 2005?---Did I know whether she was acting on behalf of Tony
14:43:07 30 Mokbel at the time? I don't think I can really answer that
14:43:10 31 in terms of - - -
14:43:10 32
14:43:10 33 If you don't know, you don't know?---No.
14:43:12 34
14:43:13 35 If you take it from me she was acting for Tony Mokbel at
14:43:16 36 the time, does it cause you concern that one of the first
14:43:19 37 things that was said to her by her handlers was, "Tell me
14:43:22 38 everything you know about Tony Mokbel", does that cause you
14:43:26 39 concern?---I suppose it depends in the context of the
14:43:30 40 conversation, whether Ms Gobbo was providing information
14:43:38 41 that was subject to legal professional privilege or whether
14:43:42 42 it was information provided that was outside that legal
14:43:47 43 professional privilege.
14:43:48 44
14:43:48 45 As you sit here now you don't know the answer to that, is
14:43:51 46 that right?---Answer to what?
14:43:53 47

14:43:53 1 Whether or not she was providing legally professionally
14:43:57 2 privileged information to the handlers?---I don't know what
14:43:59 3 she said to the handlers on that date.
14:44:01 4
14:44:02 5 I do want an answer to the question though. You as a
14:44:05 6 senior police officer hearing that, knowing she was acting
14:44:08 7 for Tony Mokbel at the time, as I've told you that she was,
14:44:12 8 and one of the first things said to her by her handlers,
14:44:16 9 was, "Tell us everything you know about (your client) Tony
14:44:21 10 Mokbel", some pretty serious issues arise in relation to
14:44:25 11 that relationship immediately, don't they?---Yes, there
14:44:29 12 would be challenges in relation to, I suppose, that
14:44:37 13 client/lawyer privilege that would have existed at that
14:44:40 14 time.
14:44:40 15
14:44:48 16 Given what you'd been told by O'Brien about safeguards
14:44:57 17 being in place and given the exchange that I've just told
14:45:00 18 you about, you'd accept that the safeguards that you were
14:45:03 19 assured about weren't in place?---Well, it's a difficult
14:45:16 20 question to answer in the sense that I don't know what the
14:45:20 21 conversation that occurred and I don't know in what context
14:45:23 22 and - - -
14:45:23 23
14:45:23 24 They were asking for everything Tony Mokbel's barrister
14:45:28 25 knew about Tony Mokbel?---Well potentially there's an issue
14:45:34 26 there.
14:45:34 27
14:45:34 28 O'Brien told you that the system that would occur was that
14:45:40 29 the SDU would provide, as it obtained information from
14:45:44 30 Gobbo, it would provide the information firstly to O'Brien.
14:45:49 31 O'Brien would write it in his diary and he would
14:45:52 32 disseminate it as and when he saw fit. Was that generally
14:45:56 33 the situation that was described to you?---Correct.
14:45:58 34
14:45:59 35 You're aware of what information reports are?---Yes.
14:46:04 36
14:46:06 37 Are you able to say whether information reports were the
14:46:10 38 method that was used to convey that information from the
14:46:13 39 SDU to Mr O'Brien?---Yes, that was one of the methods,
14:46:18 40 apart from the verbal interaction.
14:46:20 41
14:46:21 42 So sometimes it was in an IR, sometimes it was a telephone
14:46:24 43 call, there were various ways of doing it?---Correct.
14:46:27 44
14:46:30 45 Were there occasions when you yourself directly received
14:46:35 46 information from the SDU that came from - well, firstly,
14:46:39 47 generally came from any source whatsoever that wasn't

14:46:42 1 contained in an information report?---Yes.
14:46:47 2
14:46:47 3 That would happen by way of a phone call, I assume?---A
14:46:50 4 phone call or in person conversations.
14:46:52 5
14:46:54 6 Did it not go through the IR process when it was time
14:46:57 7 conscious or was it a more casual relationship or tell me
14:47:03 8 why it wouldn't be in an IR sometimes?---I would suggest
14:47:06 9 that the documentation or the IR process, depending on what
14:47:11 10 the information was, it may have been communicated
14:47:17 11 verbally, so I suppose real time intelligence as opposed to
14:47:21 12 the controllers documenting it and my understanding at that
14:47:25 13 time it was not unusual to not receive an information
14:47:28 14 report for quite some time down the road.
14:47:32 15
14:47:33 16 I'll talk about your own understanding of the source of the
14:47:38 17 information in a moment but are you able to say in a
14:47:43 18 general sense when O'Brien received information from the
14:47:48 19 SDU, that had come from Nicola Gobbo, whether he was told
14:47:53 20 it had come from Nicola Gobbo?---Sorry, can you repeat that
14:47:57 21 question?
14:47:57 22
14:47:57 23 Did you know if O'Brien, who was the main receiver of this
14:48:01 24 information from the SDU, do you know whether the SDU
14:48:04 25 informed him of the source of information when it came from
14:48:09 26 Nicola Gobbo?---I can't answer that. Maybe they did at
14:48:14 27 times, maybe they didn't. That was a similar scenario with
14:48:17 28 myself, at times I was verbally told things.
14:48:20 29
14:48:21 30 We'll talk about that in a moment about the SDU. Did
14:48:25 31 O'Brien sometimes say, "Gobbo has just told the SDU the
14:48:29 32 following, can we go and act on that or can we look into
14:48:33 33 it"?---Yes.
14:48:33 34
14:48:39 35 At paragraph 19 of your statement you talk about - I'll
14:48:49 36 read it, "DII O'Brien did not provide me with details as to
14:48:54 37 about how Ms Gobbo's status as a barrister would be managed
14:48:58 38 during her use as a human source. However I recall that he
14:49:01 39 assured me that her use as a human source had been
14:49:04 40 sanctioned and approved at the highest level of Victoria
14:49:07 41 Police". That's your evidence in paragraph 19, is that
14:49:11 42 right?---Correct.
14:49:11 43
14:49:16 44 When you use the word, the words "assured you", that he had
14:49:20 45 assured you, did you seek assurance from him or did he just
14:49:25 46 offer it?---I think it would have been part of the
14:49:30 47 conversation between myself and Jim O'Brien. I don't

14:49:34 1 remember now whether it's something I sought out of him.
14:49:37 2 It may have been part of that initial briefing that, that
14:49:42 3 her use as a human source had been authorised by senior
14:49:49 4 members of Victoria Police.
14:49:50 5
14:49:51 6 And the reason that that conversation happened and that
14:49:53 7 assurance was given was because of the highly unusual
14:49:58 8 situation of the use of a barrister as a human source, is
14:50:01 9 that right?---I'd agree with that, yes.
14:50:03 10
14:50:03 11 And because there were concerns about the issues that might
14:50:06 12 arise in relation to the obtaining and use of that
14:50:14 13 evidence? Those were the concerns?---Correct.
14:50:16 14
14:50:21 15 He told you that it had been sanctioned and approved at the
14:50:25 16 highest level of Victoria Police. I take it the highest
14:50:28 17 level of Victoria Police is the Chief Commissioner, is that
14:50:31 18 what you understood him to mean?---I didn't ask him to
14:50:38 19 clarify that but at this particular time I was a Detective
14:50:43 20 Sergeant so I would have been aware that certainly at the
14:50:47 21 lowest level it would have been at the rank of
14:50:50 22 Superintendent.
14:50:51 23
14:50:51 24 Right?---As per the policy would require the, to approve
14:50:59 25 the authorisation or the registration of Nicola Gobbo as a
14:51:04 26 human source.
14:51:04 27
14:51:05 28 Superintendent or above?---Or above, yes.
14:51:07 29
14:51:07 30 He wasn't explicit necessarily say about the Chief
14:51:12 31 Commissioner. Did he tell you who any of these people at
14:51:14 32 the highest level were?---Not specifically, no.
14:51:17 33
14:51:18 34 Have you since learned who those people at the higher level
14:51:22 35 are who sanctioned the use?---Through media reporting, yes.
14:51:26 36
14:51:27 37 So the media is your sole source of information on that
14:51:31 38 front?---Sorry, to clarify that. As from this particular
14:51:37 39 time and as time progressed I was well aware that Detective
14:51:42 40 Inspector O'Brien was reporting to steering committees that
14:51:44 41 had members of Victoria Police command as part of those
14:51:49 42 steering committees.
14:51:51 43
14:51:52 44 You talk about the conversations that you had with O'Brien
14:51:57 45 in this regard not being recorded in your diary and do you
14:52:02 46 say the reason for that is you weren't in the habit for
14:52:06 47 safety reasons, I assume, of writing down any information

14:52:09 1 about human sources in your diary, is that a correct
14:52:13 2 reflection of your evidence?---That's correct. There was -
14:52:16 3 the risk of recording a conversation like that was the
14:52:21 4 potential for a human source to be identified.
14:52:25 5
14:52:26 6 When he was talking about these assurances, you raised
14:52:29 7 concerns and he gave you assurances about it, you didn't
14:52:34 8 record that even in a way that might not identify who the
14:52:39 9 human source was, is that for safety reasons as well or is
14:52:43 10 that just the sort of thing you wouldn't diarise because
14:52:47 11 it's not essential or what's the situation?---It certainly
14:52:50 12 is not a practice, or was not a practice of mine to
14:52:53 13 necessarily record that type of conversation because it had
14:52:56 14 the potential to impact on the safety of that human source.
14:53:02 15
14:53:04 16 You became aware that Jim O'Brien was reporting the
14:53:11 17 information that Nicola Gobbo provided to the executive
14:53:15 18 management team of Crime Command. Do you know when you
14:53:18 19 became aware of that?---It would have been shortly after my
14:53:25 20 arrival and becoming aware that Ms Gobbo was providing
14:53:29 21 information. My desk was outside Mr O'Brien's and it was
14:53:37 22 not unusual for Mr O'Brien to be attending meetings to
14:53:41 23 brief his direct line report or members of Crime Command's
14:53:46 24 executive management team.
14:53:47 25
14:53:48 26 And the executive management team you record included
14:53:53 27 Assistant Commissioner Overland and a cohort of
14:53:56 28 superintendents. Do you know who those other
14:53:58 29 superintendents were at this particular time in around
14:54:01 30 March of 2006?---I have a recollection of a couple of those
14:54:10 31 superintendents but I wouldn't remember them all.
14:54:14 32
14:54:14 33 You can just tell me the couple?---I believe one would have
14:54:17 34 been Detective Superintendent Jack Blayney.
14:54:20 35
14:54:20 36 Yes?---And Detective Superintendent Richard Grant are two
14:54:27 37 that I have a recollection of.
14:54:30 38
14:54:30 39 The others you're not convinced about so I won't ask you
14:54:34 40 for those. In that same paragraph 21 of your statement you
14:54:43 41 say you don't recall exactly when you first became aware of
14:54:47 42 that reporting to the executive management team, but there
14:54:51 43 was a briefing involving, it's recorded in your diary, and
14:54:57 44 I don't need to bring it up, both Blayney and is it
14:55:03 45 Ceccin?---Ceccin, Acting Superintendent Ceccin.
14:55:09 46
14:55:09 47 Was he on the executive management team?---No, he would

14:55:12 1 have been upgraded at that particular time.
14:55:16 2
14:55:22 3 You talk in your statement about O'Brien's regular meeting
14:55:25 4 with the executive management team and those meetings were
14:55:31 5 in relation to the progress, risk and strategy of
14:55:35 6 investigations being conducted by the Purana Task Force.
14:55:42 7 Is it the situation that the executive management team
14:55:46 8 essentially had overall control or management of what was
14:55:50 9 happening within Purana, is that the structure that I
14:55:54 10 should understand it to be?---In 2006 Victoria Police was
14:56:00 11 going through or the Crime Command was going through the
14:56:04 12 major crime management model transition, however
14:56:08 13 effectively the executive management team sat probably, to
14:56:12 14 describe it at a strategic level in terms of sitting over
14:56:15 15 the different work groups that existed within Crime Command
14:56:18 16 at that time, be it serious crime, organised crime or
14:56:22 17 other.
14:56:23 18
14:56:23 19 So within Purana itself was it O'Brien at the top or were
14:56:29 20 there a number of people at the top depending on which
14:56:33 21 group you're talking about?---Detective Inspector O'Brien
14:56:36 22 was in charge of the Purana Task Force.
23
14:56:38 24 Yes?---And he would have been reporting through to the
14:56:40 25 executive management team.
14:56:41 26
14:56:42 27 For those high level type issues?---Yes, and he more than
14:56:46 28 likely had a Superintendent he had a direct report to.
14:56:50 29
14:56:54 30 So the executive management team would, for example,
14:57:00 31 oversee what directions the Purana Task Force might move
14:57:03 32 into next or what it was doing at a particular stage, is
14:57:07 33 that how it worked?---That's a fair description.
14:57:11 34
14:57:13 35 At paragraph 23 of your statement you say you weren't, and
14:57:16 36 you've given this evidence to the Commission already, you
14:57:18 37 weren't involved in the recruitment, registration or
14:57:21 38 authorisation of Gobbo and that you assumed that it
14:57:28 39 happened in accordance with the policy that was in place at
14:57:32 40 the time. Are you aware, as you sit here now, whether or
14:57:35 41 not that was the case, that it occurred in relation, in
14:57:38 42 accordance with the policies that were in existence at the
14:57:42 43 time? If you're not, just say so?---I wouldn't be aware,
14:57:46 44 it's not something I had authority over or involved in.
14:57:49 45
14:57:52 46 Have you had a chance to have a look at those policies
14:57:55 47 since, the policies that were in existence at the time?---I

14:57:59 1 have not gone back and looked at those policies.
14:58:02 2
14:58:02 3 You don't know whether those policies or any other policies
14:58:06 4 deal with the use of people who have obligations of
14:58:09 5 confidentiality or privilege as human sources?---Yeah, I'm
14:58:15 6 not aware of whether the policies at that time had coverage
14:58:19 7 of those topics you've flagged there.
14:58:21 8
14:58:23 9 You say that the policy at the time, your understanding of
14:58:28 10 it in any event, is that the subject matter required expert
14:58:34 11 advice, this is paragraph 23 of your statement, including
14:58:36 12 from the HSMU, a completion of a risk assessment and
14:58:43 13 approval from a senior member with the rank of
14:58:45 14 Superintendent, the last of those you've given evidence
14:58:49 15 about already. The issue of expert advice, is that
14:58:53 16 peculiar to a human source who's a legal practitioner or
14:58:58 17 are you saying that was your understanding of the policy
14:59:00 18 that existed across the board?---The Human Source
14:59:07 19 Management Unit would consist of and did consist of people
14:59:10 20 who had subject matter expertise in terms of the
14:59:13 21 registration process, the administration, but also the
14:59:17 22 general handling of human sources and it's a normal
14:59:21 23 practice or process if you register a human source you
14:59:24 24 would engage with that unit to obtain advice in relation to
14:59:28 25 that registration and process.
14:59:31 26
14:59:33 27 But given, despite you not being involved in the
14:59:38 28 recruitment, registration or authorisation, you would have
14:59:44 29 expected though that, you would have expected that the
15:00:09 30 expert advice that would be sought in a situation like this
15:00:14 31 would include expert advice as to the use or the obtaining
15:00:19 32 and the use of information by a person who is a practising
15:00:23 33 barrister, so legal advice about that, you would have
15:00:25 34 expected that would have been something that was sought at
15:00:28 35 the time?---Certainly my experience today, as I sit here,
15:00:32 36 if I was presented with that scenario, legal advice seems
15:00:36 37 the logical thing to obtain.
15:00:40 38
15:00:40 39 Right?---I'm not necessarily saying that subject matter
15:00:44 40 expertise would include legal advice, but where I mention
15:00:49 41 subject matter expertise there, I'm probably more talking
15:00:53 42 about the expertise of the people who run that particular
15:00:56 43 unit in terms of risk assessments and process - - -
15:01:00 44
15:01:00 45 So risk to the source rather than what, risking information
15:01:05 46 or problematic information being obtained and then
15:01:09 47 deployed?---I'd say risk to both, the organisation and also

15:01:13 1 the human source.
15:01:14 2
15:01:15 3 But it was something, I take it as you sit here now, it's
15:01:19 4 with the benefit of hindsight, you'd say it's pretty clear
15:01:25 5 they should have got legal advice about the use of Ms Gobbo
15:01:28 6 back in 2005 when she was registered, that goes without
15:01:32 7 saying, doesn't it?---I would agree with that.
15:01:34 8
15:01:36 9 At paragraph 24 you talk about that sometimes handlers
15:01:41 10 would be guarded about disclosing which human source
15:01:46 11 particular information had come from and at other times
15:01:48 12 handlers would be more forthcoming about the source of the
15:01:54 13 information and you were told on various occasions by
15:01:58 14 certain members of the SDU that information had in fact
15:02:02 15 come from Gobbo, some of them were happy to tell you that,
15:02:06 16 is that right?---Yes, that's correct.
15:02:08 17
15:02:08 18 And others were more guarded about that?---Others may not
15:02:12 19 have been as overt, they may have either assumed that I
15:02:16 20 believed it was from Ms Gobbo or it may not have been part
15:02:20 21 of the discussion.
15:02:21 22
15:02:22 23 Do you remember in a general sense those who were more
15:02:25 24 happy to tell you that the information had come from
15:02:27 25 Ms Gobbo and those who were less happy to do so? I don't
15:02:31 26 need you to say their names now, but can you remember those
15:02:34 27 who were happy to say, "Nicola's just told us this", and
15:02:38 28 those who would say, "We've just received some information
15:02:41 29 and the information is as follows"?---Over the course of
15:02:45 30 the journey there were a number of handlers, I couldn't
15:02:50 31 particularly name one who may have been - and I think in
15:02:55 32 the early days it really wasn't something discussed as open
15:03:02 33 as that, it may have been, and certainly information coming
15:03:04 34 from Jim O'Brien, there may have been times he indicated it
15:03:08 35 came from Ms Gobbo and there may have been other times he
15:03:11 36 didn't.
15:03:11 37
15:03:13 38 The Commission's heard evidence about, and you've mentioned
15:03:18 39 it previously today, the use of the sterile corridor as a
15:03:22 40 method, a good method of human source information
15:03:26 41 management, and that's the case, isn't it, it's the way
15:03:29 42 that human sources should be utilised?---It certainly
15:03:34 43 removes some of the risk involved for the investigators
15:03:37 44 being hands-on, yes.
15:03:38 45
15:03:39 46 What's your understanding of what that sterile corridor is?
15:03:42 47 How is it meant to work?---That the human source would

15:03:46 1 provide information to a controller and then that
15:03:51 2 controller would filter that information through to the
15:03:55 3 investigators and at times that may include the protection
15:04:00 4 of the identity of that human source.
15:04:02 5
15:04:03 6 Through the use of IRs, de-identified IRs, is that
15:04:07 7 right?---Correct.
15:04:08 8
15:04:08 9 And through the use of perhaps separating information out
15:04:12 10 to a number of IRs so that the source couldn't be
15:04:16 11 identified by those the information might be used against,
15:04:19 12 is that fair thing to say?---Correct.
15:04:20 13
15:04:21 14 But fundamental to that process is that the person who is
15:04:24 15 providing the information isn't going to be told to the,
15:04:27 16 the name of the person isn't going to be told to the
15:04:30 17 investigators, that's the very essence of the sterile
15:04:34 18 corridor, isn't it?---Not necessarily. I think it's
15:04:42 19 probably advantageous that it's not necessarily discussed
15:04:46 20 or known. That's certainly one of the advantages of having
15:04:51 21 a sterile corridor.
15:04:52 22
15:04:52 23 It's an advantage of it, but I want to press you on this,
15:04:57 24 that is the sterile corridor, isn't it? The sterile
15:05:00 25 corridor is where the source of the information is not
15:05:04 26 passed across the corridor, just the information is
15:05:08 27 de-identified?---My I supposed broader look at the sterile
15:05:11 28 corridor is more about or including what you're saying but
15:05:14 29 more about that day-to-day interaction that can result in
15:05:19 30 risks developing in terms of a, you know, a Stockholm
15:05:24 31 syndrome or tunnel vision in terms of investigations and
15:05:29 32 things of that nature.
15:05:30 33
15:05:30 34 The Stockholm syndrome situation would arise with the
15:05:34 35 handler and the source I assume. I'm talking about the
15:05:37 36 provision of the information that's obtained by the source
15:05:40 37 and how it's handed over to investigators to action that
15:05:42 38 information or to investigate that information?---Yep.
15:05:45 39
15:05:45 40 What I'm suggesting to you is that my understanding, and
15:05:48 41 you can tell me if I'm wrong, is that the sterile corridor
15:05:51 42 process, if it's followed, means that the provenance of
15:05:54 43 that information, where it came from, is not described, not
15:05:58 44 told, not informed to the people who are going to use the
15:06:01 45 information who sit on the other side of that sterile
15:06:05 46 corridor?---I think in the perfect scenario that would be
15:06:09 47 how it should work.

15:06:10 1
15:06:11 2 It didn't work that way with Nicola Gobbo though, did
15:06:17 3 it?---No, it didn't, no.
15:06:18 4
15:06:18 5 At paragraph 25, I'll have to be cautious about some of the
15:06:23 6 things I take you to here but you received information from
15:06:29 7 the Australian Crime Commission where you say about this,
15:06:34 8 during this time, that's still early 2006, is that
15:06:39 9 right?---Correct.
15:06:39 10
15:06:40 11 That was in relation to drug manufacturing by some unnamed
15:06:45 12 people and - - - ?---Correct.
15:06:48 13
15:06:48 14 And you know that that, the source of that information
15:06:53 15 wasn't Ms Gobbo, the place that came from wasn't Ms Gobbo.
15:06:59 16 This is paragraph 25 in your statement, last few
15:07:06 17 lines?---Correct.
15:07:07 18
15:07:09 19 Do you record that there because, just to make it clear to
15:07:14 20 the Commission that that's not an entry that need trouble
15:07:17 21 the Commission because the source of the information was
15:07:19 22 something completely different to Ms Gobbo despite there
15:07:22 23 otherwise looking like there might be some interest there?
15:07:26 24 I'm just trying to understand why that paragraph's put
15:07:29 25 there?---I think, Commissioner, it was an attempt to
15:07:32 26 articulate that whilst Ms Gobbo was providing information
15:07:34 27 on particular individuals or a network, I was also
15:07:37 28 receiving similar information from other streams, other
15:07:41 29 human sources, other law enforcement agencies that
15:07:44 30 corroborated or supported information Ms Gobbo was
15:07:48 31 providing. So she wasn't the single source of
15:07:52 32 intelligence.
15:07:53 33
15:07:53 34 Do you know, the ACC I assume had its own numbering system
15:08:00 35 for human sources that was different from VicPol's, is that
15:08:04 36 right? I'm not suggesting this came from a human source,
15:08:08 37 I'm just interested in how they manage their sources?---I'm
38 just mindful of answering that in terms of their
15:08:11 39 methodologies of another law enforcement agency.
15:08:13 40
15:08:13 41 I'm just asking whether they used a numbering system?---A
15:08:16 42 numbering system?
15:08:17 43
15:08:18 44 Yes?---I'm guided by, I'm just mindful of another law
15:08:22 45 enforcement agency, I understand - - -
15:08:24 46
15:08:24 47 I'll come back to it if it ends up being important. You at

15:08:31 1 paragraph 26 talk about the trust, or you say, "I trusted
15:08:36 2 that Victoria Police had put in place safeguards to protect
15:08:40 3 the identity of human sources who provided information for
15:08:43 4 use by the Purana Task Force". Now, firstly, protect the
15:08:51 5 identities from the world at large, from the criminal
15:08:56 6 element, from police officers who weren't SDU members, can
15:08:59 7 you explain what your trust was in relation to the
15:09:03 8 protection of information, protection of identities?---So I
15:09:17 9 suppose it was the sterile corridor we've discussed in
15:09:23 10 terms of putting safeguards to protect their identities so
15:09:28 11 any subsequent court case there was some distance between
15:09:33 12 the source of the information and the primary investigator.

15:09:37 13
15:09:37 14 That was really put in jeopardy in relation to Ms Gobbo
15:09:40 15 when it was clear that a number of people in Purana,
15:09:44 16 including yourself and including Mr O'Brien, knew that
15:09:47 17 Nicola Gobbo was the source of quite a deal of information
15:09:50 18 that was coming through, do you agree with
15:09:54 19 that?---Certainly the more people that were aware of her
15:09:58 20 identity increased the risk to herself.

15:10:01 21
15:10:01 22 Which is precisely why the sterile corridor idea is the
15:10:05 23 optimum way of dealing with human sources, that's right,
15:10:11 24 isn't it? The least people who know the better?---Correct.

15:10:16 25
15:10:17 26 You also trusted Victoria Police, you say that they put in
15:10:19 27 safeguards to ensure that you didn't receive information
15:10:23 28 that was "subject to legal professional privilege or was
15:10:23 29 otherwise confidential and inappropriate for me to receive
15:10:28 30 and act on". You know as you sit here now that Victoria
15:10:34 31 Police was seeking and using information, let's just take
15:10:38 32 Tony Mokbel as an example, seeking and using information
15:10:41 33 from Ms Gobbo against her client, Tony Mokbel, you'd know
15:10:44 34 that in 2019 as you sit here, don't you?---Sorry, can you -
15:10:51 35 - -

15:10:51 36
15:10:51 37 You know now that Victoria Police was seeking information
15:10:55 38 from Ms Gobbo about Tony Mokbel, that Mokbel was a client
15:11:02 39 of Gobbo's and that Victoria Police was using the
15:11:06 40 information that Gobbo gave them about Mokbel in its
15:11:10 41 investigations, do you accept those three things?---I think
15:11:17 42 early on my understanding is issues around legal
15:11:22 43 professional privilege or the appropriateness of the
15:11:25 44 information being passed on to investigators, either I
15:11:31 45 assumed or through the discussions with Jim O'Brien that
15:11:36 46 inappropriate or information I shouldn't receive wouldn't
15:11:40 47 filter through to me.

15:11:42 1
15:11:44 2 You're aware of the decisions of, I take it, the Supreme
15:11:49 3 Court, the Court of Appeal and the High Court in relation
15:11:51 4 to this matter. I'm not saying you've read them, but
15:11:54 5 you're aware of some pretty stern comments that have been
15:11:58 6 made about this arrangement by some judicial officers, is
15:12:02 7 that right?---Correct.
15:12:02 8
15:12:03 9 You accept then that the correctness of those statements,
15:12:06 10 and if you take them as correct, that in fact these
15:12:08 11 safeguards weren't in place. You say you trusted that they
15:12:12 12 were but what I'm putting to you now is that you now know
15:12:18 13 that that trust was misplaced?---I suppose any process
15:12:22 14 involving humans, there is that risk of a breakdown - - -
15:12:26 15
15:12:26 16 We're talking about legal professional privilege
15:12:31 17 here?---And if there's examples of legal professional
15:12:36 18 privilege information being passed on, then that would be
15:12:40 19 an issue I suppose that the Commission has been established
15:12:43 20 to identify.
15:12:46 21
15:12:47 22 All right?---Or one of the reasons I should say.
15:12:49 23
15:12:49 24 All right, I understand. You were told about Ms Gobbo
15:13:05 25 being deregistered in 2009, is that right?---I don't
15:13:13 26 remember specifically how I became aware but I certainly
15:13:16 27 became aware in early 2009 that she was deregistered, yes.
15:13:23 28
15:13:25 29 So I can assume from that point onwards it was your
15:13:29 30 understanding that Victoria Police wouldn't be receiving
15:13:32 31 any more information from Nicola Gobbo?---It was my
15:13:36 32 understanding at that time that Ms Gobbo had transitioned
15:13:40 33 to being a witness or Crown witness in a criminal trial.
15:13:47 34
15:13:49 35 Yes, and in fact that was the reason, it was the intended
15:13:52 36 use of Ms Gobbo as a Crown witness against Paul Dale that
15:13:56 37 the relationship or the registration came to an end, is
15:13:59 38 that your understanding?---That is my understanding, yes.
15:14:01 39
15:14:05 40 When you heard that information, what was your observation
15:14:10 41 being an experienced police officer about the riskiness or
15:14:16 42 otherwise of the strategy of putting Ms Gobbo in the
15:14:18 43 witness box given her long-term relationship with the SDU,
15:14:21 44 did you have a view on that?---Not particularly in the
15:14:28 45 sense that I was not managing Ms Gobbo, I had no authority
15:14:32 46 over Ms Gobbo and the particular case was not a case that I
15:14:36 47 was involved in, so I'd moved into another area by that

15:14:45 1 time so - - -
15:14:46 2
15:14:47 3 You just didn't have a point of view on that?---Not
15:14:52 4 particularly. I think it was a high profile case and
15:14:57 5 decisions had been made at a very senior level of Victoria
15:15:01 6 Police to utilise Ms Gobbo as a prosecution witness.
15:15:07 7
15:15:08 8 You talk in paragraph 28 about a significant concern of the
15:15:12 9 close personal association between some members of the
15:15:17 10 legal profession and organised crime figures and the
15:15:20 11 involvement of some lawyers in the illegal activities of
15:15:23 12 organised crime syndicates, was that something you were
15:15:26 13 investigating at the time?---From 2001 up until and post -
15:15:35 14 until 2012 I was involved in the investigation of organised
15:15:42 15 crime at a State and national level and they were my
15:15:46 16 observations certainly at the time of my recruitment to the
15:15:50 17 Purana Task Force due to intelligence holdings and
15:15:54 18 information I had.
15:15:57 19
15:16:06 20 Just going back one step. You're aware, I take it, that
15:16:11 21 following Ms Gobbo's de-registration and her taking civil
15:16:14 22 action and resolving that civil action against the police
15:16:17 23 that she continued to provide information on an ongoing
15:16:22 24 basis after that? Let's just take 2010 for a start, post
15:16:30 25 registration, post civil action, she was providing
15:16:33 26 information during that period?---At times, yes.
15:16:36 27
15:16:36 28 Was some of that to you?---Correct.
15:16:37 29
15:16:40 30 You talk about Operation Posse and that was an operation
15:16:47 31 that the Commission's heard some significant evidence about
15:16:50 32 to date and it was, the focus of that, that was something
15:16:56 33 that you began in, as I understand it, when you started at
15:16:59 34 Purana, Operation Posse?---Operation Posse had already
15:17:04 35 commenced prior to my arrival and then I, myself and my
15:17:08 36 team were tasked with assisting another crew with the
15:17:15 37 particular targets or persons of interest that were under
15:17:18 38 the umbrella of Operation Posse.
15:17:20 39
15:17:21 40 And the focus of Operation Posse was the dismantling of the
15:17:26 41 Mokbel criminal network, is that right?---That is correct,
15:17:29 42 yes.
15:17:29 43
15:17:29 44 Was it established in particular, to your understanding, to
15:17:34 45 utilise the evidence of, the information that Ms Gobbo was
15:17:38 46 providing, was that the focus of Operation Posse?---I
15:17:46 47 believe the recruitment of Ms Gobbo presented an

15:17:49 1 opportunity for Victoria Police to dismantle the Mokbel
15:17:53 2 group and others.
15:17:54 3
15:17:54 4 Yes. Posse was established as part of that?---Correct.
15:18:01 5
15:18:01 6 It really did come out Ms Gobbo's registration and at least
15:18:04 7 at the beginning was to utilise information she was
15:18:07 8 providing in relation to the Mokbel network?---I just give
15:18:11 9 an answer with caution that I was not part of the
15:18:13 10 development of the investigation plan or the approval
15:18:16 11 process, so I can only assume that the fact that Ms Gobbo
15:18:20 12 was in a position of providing information on the Mokbel
15:18:24 13 family broader than Tony Mokbel would have been one of the
15:18:30 14 reasons, but that's really probably a question for others.
15:18:33 15
15:18:34 16 I see. You were involved in the investigations and arrests
15:18:44 17 of a number of people as a result of investigations of
15:18:48 18 Operation Posse, and if you can look at paragraph 30 of
15:18:51 19 your statement and I don't want you to name any of those
15:18:54 20 people, but they were people that were arrested as a result
15:18:57 21 of those investigations, is that right?---Yes, that's
15:19:02 22 correct and others.
15:19:02 23
15:19:03 24 And you had dealings with Ms Gobbo in relation to those
15:19:05 25 arrests?---In different capacities, yes.
15:19:08 26
15:19:08 27 When you say in relation to those arrests, you're talking
15:19:13 28 about I assume the investigation that led to those arrests
15:19:16 29 or was it the actual physical act of arrest?---I'll just
15:19:20 30 need you to clarify - - -
15:19:22 31
15:19:22 32 You say you had dealings with Ms Gobbo in relation to these
15:19:25 33 arrests. Should that be in relation to these, the
15:19:29 34 investigations that led to these arrests?---What I
15:19:33 35 attempted to articulate there, perhaps not too well,
15:19:36 36 perhaps, one of the persons arrested, Ms Gobbo attended the
15:19:43 37 police station and spoke to the accused while he was in
15:19:45 38 custody and that's what I mean by that.
15:19:48 39
15:19:51 40 So in relation to representing one of those people
15:19:55 41 then?---Correct.
15:19:56 42
15:19:57 43 COMMISSIONER: Can I ask, only one?---I believe the first
15:20:04 44 two named Ms Gobbo attended on the date of their arrest and
15:20:09 45 spoke to both. I'm not, not aware of the third. The
15:20:15 46 fourth person named there, Ms Gobbo and another solicitor
15:20:23 47 also attended and spoke to that person and the last person

15:20:32 1 named there, Ms Gobbo also had an involvement in terms of
15:20:39 2 that, providing legal advice or through her instructing
15:20:44 3 solicitors.
15:20:46 4
15:20:46 5 So out of the six named persons she was involved in getting
15:20:50 6 legal advice to four of them?---Yes. I'm not sure, I don't
15:20:55 7 have a recollection of the second-last person but I don't
15:20:59 8 believe so. But I know she was aware of that second-last
15:21:04 9 named person and I think we might get on to that later in
15:21:08 10 relation to some matters, but.
15:21:12 11
15:21:12 12 Thank you Mr Woods.
15:21:13 13
15:21:14 14 MR WOODS: Can I ask that a document be brought up only in
15:21:16 15 front of you, me and the Commissioner, and it's
15:21:24 16 VPL.0005.0123.0001.
15:21:27 17
15:21:27 18 COMMISSIONER: Has this been tendered as an exhibit
15:21:30 19 already?
15:21:30 20
15:21:31 21 MR WOODS: No, it hasn't. If you could go to p.7 of that
15:21:39 22 document, please. This is your diary in relation to some
15:21:53 23 investigations that happened in relation to one of the
15:21:57 24 people that we've just been talking about, is that
15:22:04 25 right?---Yes. Yes, that's correct.
15:22:07 26
15:22:09 27 Then another page of that document, p.10. And again, if
15:22:24 28 you can perhaps take that off my screen, sorry, that's my
15:22:28 29 fault. That is again a diary entry from about two weeks
15:22:34 30 later in relation to an investigation into the same
15:22:38 31 person?---Correct.
15:22:39 32
15:22:41 33 Commissioner, I want to tender those two. I'm not able to
15:22:46 34 elicit a lot of information about them at this stage but
15:22:50 35 they will become relevant so I'll tender them on a
15:22:53 36 confidential basis at this stage.
15:22:56 37
15:22:58 38 #EXHIBIT RC235 - Confidential exhibit.
15:23:07 39
15:23:07 40 You were present when the two people you identify in
15:23:10 41 paragraph 33 of your statement were arrested in 2006. Do
15:23:14 42 you see that paragraph of your statement?---Yes, I arrived
15:23:19 43 shortly after their arrest at that location.
15:23:21 44
15:23:22 45 They were brought to where, where were they physically
15:23:26 46 brought to?---They were taken back to the St Kilda Road
15:23:29 47 Police Complex which was Crime Command's headquarters.

15:23:31 1
15:23:31 2 It was a different crew in fact that was handling that
15:23:38 3 arrest, is that right?---Yes, it was not, my crew was not
15:23:42 4 the primary crew in terms of targeting the individuals
15:23:46 5 you've flagged there.
15:23:48 6
15:23:48 7 But in any event, you give an account at paragraphs A to G
15:23:54 8 of paragraph 33 as to what occurred and one of the things
15:24:01 9 that occurred is that the individuals had asked to speak to
15:24:10 10 Ms Gobbo upon their arrest, that's right?---That's correct.
15:24:13 11
15:24:18 12 They did both speak to Ms Gobbo after she attended on that
15:24:23 13 same day, is that your recollection?---Yes, from my diary
15:24:26 14 notes that appears to be the case, yes.
15:24:28 15
15:24:29 16 Do you recall seeing her attend on that occasion?---Yes, I
15:24:33 17 have a recollection of her attending, yes.
15:24:38 18
15:24:40 19 You say in your statement that you weren't completely
15:24:43 20 comfortable with Ms Gobbo attending as the lawyer of one of
15:24:47 21 those individuals. Now, the reason you weren't comfortable
15:24:52 22 is that you knew that the information that had been acted
15:24:55 23 on had come from Ms Gobbo, that was right, wasn't it?---In
15:24:59 24 relation to the discovery of the clandestine laboratory,
15:25:03 25 yes. Yes.
15:25:04 26
15:25:08 27 You say you weren't completely comfortable but can I
15:25:13 28 suggest you're attempting to be a bit too polite there.
15:25:18 29 You must have been deeply uncomfortable given her
15:25:21 30 attendance when she was the source of the information that
15:25:25 31 led to that arrest?---No, I believe I've indicated there in
15:25:29 32 the statement where I was confident that Detective
15:25:34 33 Inspector O'Brien who was coordinating that particular
15:25:38 34 operation and arrest, in conjunction with the Source
15:25:44 35 Development Unit, had processes or strategies in place to
15:25:52 36 reduce that, I suppose that discomfort that that scenario
15:25:57 37 presented.
15:25:57 38
15:25:57 39 Mr O'Brien has given a statement to the Commission and he
15:26:00 40 says that he first knew of Gobbo providing information to
15:26:04 41 the SDU after she was registered with the SDU. He didn't
15:26:13 42 know at the time of registration. If that's the case then
15:26:16 43 he couldn't have been involved in those initial discussions
15:26:19 44 and the shoring up of proper channels of information,
15:26:22 45 et cetera, because he only found out afterwards?---Are you
15:26:25 46 talking about when she was initially registered?
15:26:26 47

15:26:26 1 I'm talking about when she was initially registered, so
15:26:29 2 some time before this occurred?---What I've attempted to
15:26:33 3 articulate there was I was comfortable on that particular
15:26:37 4 arrest that the Source Development Unit and Detective
15:26:41 5 Inspector O'Brien were in dialogue that I was not party to
15:26:45 6 in relation to dealing with that scenario that had
15:26:48 7 presented itself.

15:26:49 8
15:26:49 9 Another thing that O'Brien says in his statement is that he
15:26:52 10 simply didn't turn his mind to whether or not there was
15:26:55 11 legally professionally privileged information being
15:26:58 12 provided by Ms Gobbo. Now, you haven't seen his statement
15:27:01 13 I assume?---No, I haven't.

15:27:02 14
15:27:03 15 If you take that as correct, and that's his position, then
15:27:07 16 that causes a serious problem with what your assumptions
15:27:12 17 were at the time, I'm not saying they weren't reasonably
15:27:16 18 held at the time but you were wrong about those assumptions
15:27:19 19 in relation to Jim O'Brien, if he hadn't turned his mind to
15:27:22 20 the use of privileged information?---Well I can't talk on
15:27:26 21 behalf of Jim O'Brien but my observation from a distance
15:27:29 22 was the Source Development Unit had responsibility for
15:27:33 23 Ms Gobbo's management and - - -

15:27:37 24
15:27:37 25 You say, "However I was confident that DI O'Brien and the
15:27:41 26 SDU would have in place appropriate strategies to manage
15:27:46 27 potential conflict while ensuring Ms Gobbo's safety was not
15:27:51 28 compromised".

15:27:52 29
15:27:52 30 COMMISSIONER: And the executive management team.

15:27:54 31
15:27:54 32 MR WOODS: Yes?---So what I'm saying there is, if I haven't
15:27:57 33 expressed it well, I was aware Mr O'Brien was engaged
15:28:00 34 heavily with the head of the Source Development Unit at the
15:28:03 35 time and that there were discussions no doubt occurring in
15:28:09 36 working through some of the complexities of that scenario
15:28:13 37 that had presented itself.

15:28:15 38
15:28:15 39 So you were uncomfortable but you were confident?---I would
15:28:18 40 say I was not completely comfortable but I was confident in
15:28:24 41 Jim O'Brien's experience, knowledge and certainly the
15:28:29 42 source development unit's, what I believe to be a structure
15:28:34 43 or a process they put in place for Ms Gobbo.

15:28:37 44
15:28:38 45 Did it occur to you to say on that occasion, this is early
15:28:41 46 on in the relationship or this third registration
15:28:45 47 relationship that Victoria Police had with Ms Gobbo, did it

15:28:48 1 occur to you when you saw Nicola Gobbo turn up after that
15:28:52 2 arrest to say something in circumstances where you knew she
15:28:55 3 was the source of that information and she was now
15:28:57 4 purporting to act for that person? Did it occur to you to
15:29:02 5 say something about it?---I don't have a recollection, a
15:29:06 6 specific recollection but the scenario that presented
15:29:11 7 itself in this incident was Mr O'Brien and the Source
15:29:18 8 Development Unit I knew were in conversation and this was
15:29:22 9 very much an arrest or arrests and an operation that was
15:29:26 10 being coordinated by Detective Inspector O'Brien.

15:29:30 11
15:29:32 12 Who, if you accept what I say about his statement, which I
15:29:35 13 can tell you is correct, he says that he didn't turn his
15:29:38 14 mind to whether or not Ms Gobbo was supplying information
15:29:43 15 that was the subject of legal professional privilege. So
15:29:50 16 he wasn't turning his mind to every aspect of the problems
15:29:54 17 that might have persisted in relation to the information,
15:29:57 18 was he?---Are you talking about this specific arrest?

15:30:03 19
15:30:03 20 You say here you weren't completely comfortable but you
15:30:06 21 were still confident. I'm now talking generally, in your
15:30:12 22 confidence in Mr O'Brien given that he didn't turn his mind
15:30:16 23 to legal professional privilege, does that shake your
15:30:19 24 confidence at all in Mr O'Brien?---I'd be surprised if
15:30:23 25 Mr O'Brien hadn't considered that as a risk, but certainly
15:30:30 26 the source was being managed, perhaps the scenario was that
15:30:34 27 Mr O'Brien was relying upon the Source Development Unit,
15:30:38 28 but again I'm talking on behalf of Mr O'Brien.

15:30:40 29
15:30:42 30 Perhaps he was, but does it shake your confidence hearing
15:30:44 31 that, that he didn't turn his mind to legal professional
15:30:47 32 privilege?---I'm surprised that perhaps it wasn't
15:30:50 33 considered, yes.

15:30:50 34
15:30:54 35 So in short, you assumed that those above you had
15:30:58 36 sanctioned it and had done, had gone through all the proper
15:31:02 37 channels, that's the correct summation of your
15:31:05 38 evidence?---That's correct.

15:31:06 39
15:31:11 40 Paragraph 35 of your statement you go on to talk about that
15:31:17 41 same arrest and then the time, the period that followed in
15:31:24 42 relation to dismantling or arresting other, gathering
15:31:28 43 further evidence in relation to others involved in the
15:31:31 44 Mokbel criminal cartel, that's what came next after those
15:31:34 45 arrests?---Yes.

15:31:36 46
15:31:38 47 You've produced some diaries of the period. Commissioner,

15:31:48 1 I'm going to tender them without taking the witness through
15:31:52 2 them for various reasons. I'm not sure that we have the
15:31:56 3 diaries of 23 April 2006 to 16 May 2006. As we looked last
15:32:07 4 night I don't think that was contained in the diaries that
15:32:09 5 were provided, but they're based on the statement directly
15:32:14 6 relevant so we'll ask that they're either identified if
15:32:18 7 they have been provided - - -
15:32:19 8
15:32:19 9 COMMISSIONER: So 23 April 2006 until when?
15:32:24 10
15:32:24 11 MR WOODS: Commissioner, if you look at paragraph 26, it's
15:32:28 12 23 April 2006 down to - - -
15:32:34 13
15:32:34 14 COMMISSIONER: 18 August.
15:32:35 15
15:32:35 16 MR WOODS: Yes, 18 August 2006.
15:32:37 17
15:32:38 18 COMMISSIONER: You want to tender all those diaries?
15:32:40 19
15:32:40 20 MR WOODS: Yes, I do, because they are relevant to other
15:32:43 21 areas of investigation.
15:32:45 22
15:32:46 23 MS ARGIROPOULOS: Commissioner, can I just approach
15:32:48 24 Mr Woods for a moment?
15:32:59 25
15:33:00 26 MR WOODS: Thank you.
15:33:01 27
15:33:02 28 MS ARGIROPOULOS: If I can just indicate, I've just
15:33:04 29 provided Mr Woods with a VPL number. I understand those
15:33:08 30 diaries have been produced however they haven't undergone a
15:33:11 31 full PII review, so now that those pages have been
15:33:15 32 identified, they'll go into that process and can then be
15:33:18 33 produced for publication.
15:33:38 34
15:33:38 35 COMMISSIONER: They were identified in your witness's
15:33:38 36 statement, yes.
15:33:38 37
15:33:38 38 MS ARGIROPOULOS: Yes.
15:33:38 39
15:33:38 40 COMMISSIONER: I understand that.
15:33:38 41
15:33:38 42 MS ARGIROPOULOS: As I say, they have been produced to the
15:33:38 43 Royal Commission. I have a VPL number I can refer to if
15:33:41 44 that would be of assistance. For those specific dates, the
15:33:45 45 diaries for the period 10 March 06 to 22/8/06 have been
15:33:52 46 produced. The VPL number is 0005.0123.0001.
15:33:59 47

15:34:00 1 COMMISSIONER: Yes, but they haven't been PIIed. But it's
15:34:02 2 only from the 23rd of - - -
15:34:02 3
4 MR WOODS: Mr Skim might tell us whether or not we've got
15:34:02 5 it. I'm told we don't. We do have some diaries, but we
15:34:07 6 just don't have others. In any event I'm not going to
15:34:10 7 bring them up on the screen for now.
15:34:11 8
15:34:11 9 COMMISSIONER: Sure. But you're only interested in 23
15:34:14 10 April 2006 until 18 August 2006, which are the dates
15:34:18 11 mentioned in paragraph 36 of the witness's statement.
15:34:21 12
15:34:22 13 MR WOODS: And only those entries.
15:34:23 14
15:34:24 15 COMMISSIONER: Only those entries.
15:34:25 16
15:34:26 17 MR WOODS: Not that whole period of time, just those
15:34:28 18 entries.
15:34:29 19
15:34:29 20 COMMISSIONER: All right.
15:34:30 21
15:34:30 22 #EXHIBIT RC236 - (Confidential) Diary entries of Jason
15:34:33 23 Kelly.
15:34:33 24
15:34:34 25 COMMISSIONER: I guess it will have to remain a
15:34:36 26 confidential exhibit until it's PIIed.
15:34:39 27
15:34:39 28 MS ARGIROPOULOS: That's correct, Commissioner.
15:34:39 29
15:34:40 30 COMMISSIONER: When will those documents be supplied?
15:34:43 31
15:34:43 32 MR WOODS: VicPol, I think, think they have supplied them.
15:34:46 33 We think they haven't. We'll have to try and work out
15:34:49 34 whose wrong and whose wrong about that.
15:34:51 35
15:34:51 36 COMMISSIONER: Yes.
15:34:52 37
15:34:53 38 MR WOODS: I don't want to point the finger.
15:34:54 39
15:34:54 40 COMMISSIONER: All right.
15:34:56 41
15:34:57 42 MR WOODS: We looked for them last night, couldn't find
15:35:00 43 them, but we couldn't others so we'll work that out.
15:35:01 44
15:35:01 45 COMMISSIONER: When will they PIIed?
15:35:03 46
15:35:03 47 MS ARGIROPOULOS: They will go into the system now to make

15:35:07 1 them appropriate for publication. As I understand it, the
15:35:10 2 priorities are of course to PII the documents that we also
15:35:13 3 need for the witnesses in the coming days.
15:35:16 4
15:35:16 5 COMMISSIONER: This is a witness who's here today. So I
15:35:18 6 think it has some priority. Is that right?
15:35:22 7
15:35:23 8 MS ARGIROPOULOS: Sorry, Commissioner, if I can explain.
15:35:25 9 From Victoria Police's point of view all of these diaries
15:35:28 10 have undergone the short PII process and have been
15:35:32 11 provided. I hear what my learned friend says, that there's
15:35:35 12 some confusion because he doesn't have them with him now.
13 Now that those diaries have been tendered, they will be put
15:35:41 14 into the full PII process so that they're in a form that's
15:35:41 15 appropriate for publication. If for whatever reason
15:35:48 16 Mr Woods doesn't have those diaries, we can provide them
15:35:51 17 again, but I'm instructed they have been produced.
15:35:53 18
15:35:54 19 COMMISSIONER: And I'm saying and how long is the PII
15:35:57 20 system going to take for these diaries? You said you're
15:36:00 21 giving priority to people about to be called. I'm saying
15:36:03 22 to you this witness is being called right now so it has
15:36:06 23 priority too.
15:36:08 24
15:36:08 25 MS ARGIROPOULOS: Of course it does. I'm sorry, I think
15:36:10 26 we're at cross-purposes. In terms of the full PII review
15:36:13 27 in order for these documents to be in a form that's for
15:36:16 28 publication, that will need to be added to the other - the
15:36:21 29 PII process. But Victoria Police won't prioritise that
15:36:26 30 over other documents and diaries which are required for the
15:36:29 31 witnesses that are still to be called in this hearing.
15:36:32 32
15:36:32 33 COMMISSIONER: So what time frame are we looking at?
15:36:35 34
15:36:36 35 MS ARGIROPOULOS: I'll seek instructions about how long
15:36:40 36 that will be, Commissioner.
15:36:41 37
15:36:42 38 COMMISSIONER: Thank you. That will be Exhibit 236.
15:36:45 39
15:36:45 40 MR WOODS: Thank you, Mr Kelly. I want to ask you a few
15:36:50 41 questions about, you had personal contact with Ms Gobbo on
15:36:56 42 various occasions after you commenced at Purana in a
15:37:01 43 professional capacity; is that right?---Correct.
15:37:03 44
15:37:05 45 Were you aware of any views or were views expressed to you
15:37:12 46 about Ms Gobbo's own mental health and her state of mind
15:37:23 47 when she was providing this evidence, this information to

15:37:26 1 Victoria Police?---Did I have a view or was I - - -
15:37:33 2
15:37:34 3 No, was it a subject of discussion that you either heard or
15:37:38 4 were involved in as to the frame of mind of Ms Gobbo, her
15:37:42 5 mental health in particular, at the times that she was
15:37:46 6 engaged with the SDU to provide information?---I didn't
15:37:49 7 have contact with Ms Gobbo or have those types of
15:37:54 8 conversations because she was - she was not providing
15:37:57 9 information directly to me, 2006, 2007.
15:38:00 10
15:38:00 11 I'm not talking about directly with you. I'm just talking
15:38:03 12 about whether or not there were discussions with you
15:38:06 13 amongst other people, I'm not talking about her mental
15:38:10 14 health with her?---No.
15:38:10 15
15:38:11 16 I'm talking about the views of others and whether they were
15:38:13 17 expressed to you about whether or not Ms Gobbo was - what
15:38:18 18 the state of her mental health was at the time when she was
15:38:22 19 dealing with the SDU?---I don't have a recollection of
15:38:27 20 certainly in the earlier period of the Source Development
15:38:32 21 Unit or Jim and I or others discussing her mental health
15:38:35 22 with me.
15:38:36 23
15:38:36 24 What were your own observations, and I'm not asking for a
15:38:41 25 clinical analysis here, but you had significant dealings
15:38:44 26 with her going down the track, some of which we'll touch
15:38:48 27 on, what were your own observations of Ms Gobbo and the way
15:38:51 28 she interacted with people, including you? What sort of
15:38:56 29 person was she?---On reflection she was someone who
15:39:05 30 continued to provide information to Victoria Police despite
15:39:12 31 on a number of occasions or at a number of junctures I
15:39:16 32 suppose she was advised to cease that activity. I know, or
15:39:23 33 my observations of her, there was some health issues
15:39:26 34 probably later, probably more so when she was a witness for
15:39:30 35 Victoria Police is my understanding.
15:39:32 36
15:39:32 37 Are you talking about mental health issues or physical
15:39:34 38 health issues or both?---I think it may have been a
15:39:38 39 combination of both and I'm referring to around the 2009,
15:39:41 40 2010 sort of period.
15:39:43 41
15:39:43 42 You were still dealing with her throughout that
15:39:45 43 period?---Correct.
15:39:45 44
15:39:46 45 And you made some of those observations yourself?---Based
15:39:50 46 on conversations she had with me, yes.
15:39:53 47

15:39:53 1 Was she erratic, was she - what sort of things - just so
15:39:57 2 the Commissioner can be a bit assisted by this, what were
15:40:00 3 those observations, specifically about her mental health,
15:40:02 4 not physical health?---I would not describe her as erratic.
15:40:09 5 Articulate, intelligent but under enormous strain in 2009
15:40:14 6 in relation to being a prosecution witness for Victoria
15:40:19 7 Police and I believe those pressures were impacting her
15:40:28 8 2009, 2010. That's based on information she conveyed to me
15:40:37 9 during conversations.

15:40:40 10
15:40:41 11 Have you ever listened to tapes of communications or ICRs,
15:40:47 12 the communications between Ms Gobbo and her handlers?---No.

15:40:51 13
15:40:53 14 The observations that you made later on, what about
15:40:56 15 observations between 2006 and 2009 about Ms Gobbo's mental
15:41:04 16 well-being?---I was not in regular contact with her 2006,
15:41:11 17 2007, that was the Source Development Unit. I know that
15:41:17 18 she created a significant amount of work in terms of her
15:41:22 19 contact and there was - - -

15:41:25 20
15:41:26 21 Provided a lot of information?---Correct, and there was a
15:41:30 22 full-time job in terms of taking or controlling her daily.

15:41:36 23
15:41:37 24 Yes, I see. That later on period where she continued to
15:41:44 25 provide information once she'd been told to stop, as I
15:41:48 26 understand your evidence to be, that must have caused you
15:41:51 27 some concerns about her mental well-being at that stage at
15:41:54 28 least?---The information provided to myself was not in the
15:42:01 29 same, it was a very different scenario to the information
15:42:05 30 she was providing to the Source Development Unit. I would
15:42:08 31 receive information on occasion where it was of significant
15:42:12 32 community impact, I'm talking life and death type scenario,
15:42:17 33 and also in relation to a number of death threats that
15:42:22 34 Ms Gobbo had been receiving.

15:42:24 35
15:42:25 36 I'm not so interested in that, we'll talk about that. I'm
15:42:29 37 more talking about information that she was providing that
15:42:32 38 wasn't about her own safety. I'm talking about the very
15:42:35 39 fact of wanting to continually provide this information to
15:42:38 40 police despite being told to stop. Did that cause you any
15:42:43 41 concern about her mental well-being?---It was not regular
15:42:54 42 enough that I felt that there were mental health issues in
15:43:00 43 terms of that but I knew that in 2009, 2010 she was under
15:43:06 44 strain and I think she had some medical issues and the
15:43:11 45 pressure of giving evidence in a high profile murder
15:43:17 46 investigation would have an impact or did appear to have an
15:43:21 47 impact on her.

15:43:22 1
15:43:23 2 All right. You provide an explanation at paragraphs 38 to
15:43:50 3 42 of Operation Dotard?---Dotard.
15:43:58 4
15:44:03 5 That concerned the manufacture and sales of methamphetamine
15:44:11 6 by Horthy Mokbel, Stephen Gavvanas and Mohammed Khoder; is
15:44:18 7 that right?---That's correct.
15:44:19 8
15:44:19 9 Your involvement commenced in June or July 2006?---Correct.
15:44:24 10
15:44:26 11 And there'd been some intelligence received from both the
15:44:31 12 ACC and the SDU concerning that operation?---Correct.
15:44:34 13
15:44:34 14 And the reason you recorded here is that, do I understand
15:44:40 15 it that you understand that some of that information came
15:44:43 16 from Ms Gobbo?---Yes.
15:44:44 17
15:44:45 18 All right?---I suppose I should clarify that.
15:44:49 19
15:44:50 20 Go ahead?---It came from the Source Development Unit.
15:44:52 21
15:44:52 22 Yes?---I believe it would have also - some of it would have
15:45:01 23 come from Ms Gobbo, yes.
15:45:02 24
15:45:03 25 That's the reason, isn't it, that it's in this statement
15:45:06 26 and lots of other things aren't in the statement. This is
15:45:08 27 in the statement because your understanding is that some of
15:45:11 28 the information came from Ms Gobbo?---Correct.
15:45:12 29
15:45:13 30 Then Operation Tool?---Yes.
15:45:15 31
15:45:16 32 Again, that was an operation that related to Horthy Mokbel
15:45:26 33 and it essentially arose out of Operation
15:45:31 34 Dotard?---Correct, one led on to the other.
15:45:32 35
15:45:32 36 All right. Again, in that investigation, not all but some
15:45:37 37 of the information was, to your understanding, coming from
15:45:39 38 Ms Gobbo?---Operation Tool, just to clarify, it was more -
15:45:56 39 we were aware of certain chemicals that had been seized
15:46:00 40 during Operation Dotard that we then were able to trace
15:46:04 41 back to an importer and we were then able to show a
15:46:10 42 connection between Horthy Mokbel and a middle person. I'm
15:46:17 43 aware that Ms Gobbo was providing information on Horthy
15:46:20 44 Mokbel.
15:46:20 45
15:46:21 46 Yes?---And that's why it's included.
15:46:24 47

15:46:24 1 That's why it's included, okay. And then it was in fact
15:46:29 2 part of that surveillance and then some other information
15:46:31 3 that was received that led to Tony Mokbel's location being
15:46:36 4 identified in Athens?---Correct.
15:46:38 5
15:46:40 6 Ms Gobbo wasn't, to your knowledge, any part of that
15:46:44 7 identification of his location?---To my knowledge, no.
15:46:50 8 That was a - yes, to my knowledge, no.
15:46:53 9
15:46:56 10 You've got Operation Gosford at paragraphs 47 to 49. That
15:47:02 11 was established specifically as a result of threats that
15:47:07 12 Ms Gobbo herself received?---That's correct.
15:47:10 13
15:47:14 14 She was dealing largely with Detective Sergeant Flynn and
15:47:21 15 Detective Senior Constable Rowe in relation to that but you
15:47:23 16 had some involvement; is that right?---Correct.
15:47:25 17
15:47:29 18 Again, I'll tender those diary entries but I don't need to
15:47:33 19 take you through them. This is each of the entries there
15:47:38 20 that once they've been through the review, Commissioner, I
15:47:42 21 have reviewed each of these and they, each of them are
15:47:46 22 relevant. I seek to tender each of the entries from
15:47:48 23 paragraph 48A to K.
15:47:55 24
15:47:56 25 #EXHIBIT RC237 - (Confidential) Diary entries.
15:48:03 26
15:48:03 27 COMMISSIONER: That will be on the same basis I suppose,
15:48:06 28 confidential until you've had the opportunity to PII.
15:48:11 29
15:48:11 30 MS ARGIROPOULOS: That's correct, Commissioner.
15:48:12 31
15:48:12 32 COMMISSIONER: Thank you.
15:48:17 33
15:48:18 34 MR WOODS: Ms Gobbo had been receiving - firstly, she
15:48:21 35 received a text message threat at the beginning of these
15:48:24 36 threats that she started to receive; is that right?---Yes.
15:48:27 37
15:48:27 38 Purana investigated the source of those text messages,
15:48:30 39 correct?---Correct.
15:48:31 40
15:48:32 41 And in fact the first of those it appeared had come from a
15:48:38 42 telephone that had been registered falsely in your
15:48:42 43 name?---I'm not sure whether it was actually the first but
15:48:45 44 it was certainly one that I had an involvement with or was
15:48:48 45 aware of. So there may have been threats made to Ms Gobbo
15:48:53 46 prior to that.
15:48:53 47

15:48:54 1 All right. But the first one you were aware of, they
15:48:57 2 chased it down and someone with a devilish sense of humour
15:49:04 3 had registered the name to you?---Correct.
15:49:07 4
15:49:07 5 Registered the phone to you, right. Ms Gobbo contacted you
15:49:11 6 or spoke to you about that particular one, do you know?---I
15:49:19 7 would need to refer to my diary. It may have been that I
15:49:23 8 became aware through Detective Senior Constable Rowe or his
15:49:29 9 team that that text, that subscriber had been falsely
15:49:36 10 registered in my name.
15:49:37 11
15:49:37 12 Then there was some back and forth over the next couple of
15:49:41 13 months up until December about how to deal with these
15:49:43 14 threats between you, Flynn and Rowe, that's a correct
15:49:47 15 summary of - - - ?---And other investigators, yes.
15:49:51 16
15:49:52 17 And others. Then again on 13 December Ms Gobbo contacted
15:49:55 18 you about another four text messages she'd received, that's
15:49:59 19 right?---That's correct.
15:50:00 20
15:50:00 21 Contacted you directly?---Correct.
15:50:01 22
15:50:02 23 Did she know at this stage it was Flynn and Rowe she was
15:50:05 24 meant to be dealing with, or wasn't there that structure,
15:50:08 25 it was anyone she could get her hands on?---It may have
15:50:13 26 been Flynn or Rowe were on leave or absent from the
15:50:16 27 workplace.
15:50:17 28
15:50:17 29 Okay. But it was appropriate that she contact you?---Yes.
15:50:20 30
15:50:21 31 And this time the call, the text messages were traced and
15:50:25 32 the person had registered the name of the phone in the name
15:50:29 33 of another Purana Task Force member?---Correct, falsely.
15:50:32 34
15:50:33 35 Are you aware of that happening on other occasions or only
15:50:36 36 those two?---I'm only aware of those two occasions.
15:50:39 37
15:50:39 38 Did they ever find out who was making those threats?---We
15:50:43 39 certainly had a person of interest but to my knowledge no
15:50:48 40 person has ever been charged.
15:50:49 41
15:50:50 42 Okay. I won't trouble you taking you through - just at
15:51:06 43 paragraph H at the top of p.10 of your statement, you were
15:51:14 44 advised on 16 April 2008 that there'd been an arson attack
15:51:21 45 on Ms Gobbo's car and that's an event the Commission has
15:51:24 46 heard some evidence about from others, do you recall
15:51:27 47 that?---Correct.

15:51:27 1
15:51:30 2 You were asked by Inspector Edwards to go to the
15:51:36 3 scene?---Correct.
15:51:36 4
15:51:36 5 I take the scene wasn't at her house?---No, it was
15:51:40 6 Clarendon Street, South Melbourne.
15:51:42 7
15:51:43 8 On your way there you were called and essentially told it
15:51:47 9 wouldn't be a good look or might raise some suspicions from
15:51:51 10 the criminal element if a senior Purana person turned up
15:51:55 11 because it might be questioned as to why some uniforms
15:51:59 12 didn't turn up instead, is that essentially what
15:52:02 13 happened?---As is any normal process, the uniform police
15:52:06 14 attended, the local detectives attended but there was
15:52:08 15 concern raised that if an investigator, being myself, from
15:52:12 16 the Purana Task Force was deployed it may raise some
15:52:17 17 concerns around that response.
15:52:19 18
15:52:19 19 So instead you went to her home, as seemed to be the safer
15:52:24 20 thing to do, and got some information about the arson
15:52:26 21 attack?---Correct.
15:52:27 22
15:52:28 23 And told her that Purana would investigate the
15:52:31 24 matter?---That's right.
15:52:31 25
15:52:32 26 All right. Tell me if I'm wrong, is it likely that the
15:52:42 27 criminal figures who were, there was a concern that they
15:52:46 28 might see you where the car fire was, might well know her
15:52:50 29 home address as well, is that fair assumption?---Sorry, can
15:52:54 30 you repeat that?
15:52:54 31
15:52:54 32 You knew at this time, and you had concerns about her
15:52:57 33 closeness to members of the criminal underworld, indeed one
15:53:01 34 of the things you were worried about was that she was
15:53:03 35 feeding information back to underworld figures, that was a
15:53:06 36 concern you had?---Not an ongoing concern but as I've
15:53:10 37 indicated in my statement there were occasions where I
15:53:13 38 received information that suggested that.
15:53:15 39
15:53:16 40 And you knew that she was close to a number of known
15:53:19 41 criminals?---Correct.
15:53:20 42
15:53:20 43 Personally close?---Yes.
15:53:21 44
15:53:22 45 What I'm suggesting is that the fact that you're told,
15:53:27 46 "Actually, don't turn up to the car fire because you might
15:53:30 47 be identified there, go to her house instead", what I'm

15:53:34 1 saying is wouldn't it be logical that the criminals would
15:53:37 2 know where her house was as well?---I think on the scenario
15:53:40 3 it was probably the better option out of the two because my
15:53:43 4 understanding was she was out for dinner with a client and
15:53:47 5 another solicitor so the decision was made to redirect me
15:53:51 6 to the home address.

15:53:52 7
15:53:53 8 Given the fact that you knew at this stage or you'd known
15:53:58 9 for a couple of years at this stage that she was a human
15:54:01 10 source and was providing a great deal of information to the
15:54:04 11 SDU, do I understand correctly that you believe that these
15:54:11 12 actions, these text messages and this arson attack on the
15:54:14 13 car, was as a result of her providing information to the
15:54:18 14 police or people assuming she was providing information to
15:54:23 15 the police?---Like any sort of anonymous threats it was - I
15:54:34 16 don't know the context of the threats but certainly it
15:54:36 17 raised suspicion that perhaps some people believed that she
15:54:40 18 was providing information to Victoria Police.

15:54:41 19
15:54:42 20 Was the substance of the text messages indicative of that,
15:54:44 21 did it demonstrate that that's what the suggestion was
15:54:47 22 against her, that she was providing information or you
15:54:49 23 don't remember what they said?---I would have to see those
15:54:53 24 text messages to refresh my memory.

15:54:55 25
15:54:55 26 Would there be a copy of them somewhere we'd be able to
15:54:58 27 see?---I think my diary indicates, they're written into my
15:55:03 28 diary, at least four of the text messages.

15:55:05 29
15:55:05 30 All right. We'll look at them in due course, it's all
15:55:18 31 right. We might just move through the last few issues as
15:55:21 32 quickly as possible.

15:55:29 33
15:55:29 34 COMMISSIONER: I'm happy to sit on if that assists for you
15:55:33 35 to finish this part of the statement.

15:55:37 36
15:55:37 37 MR WOODS: Hopefully not for long, Commissioner, but I
15:55:40 38 think that might assist, thank you. I just have to step
15:55:45 39 carefully around some issues that are coming up, that's
15:55:47 40 all.

15:55:47 41
15:55:48 42 COMMISSIONER: Yes.

15:55:48 43
15:55:49 44 MR WOODS: At paragraph 51 of your statement you talk about
15:56:02 45 early 2008 contact with Ms Gobbo and I'm just not sure from
15:56:13 46 the discussion before the break whether this person has
15:56:17 47 been given a - Person 15. You can take it that the name

15:56:23 1 just towards the end of the very top line of paragraph 51
15:56:29 2 is Person 15?---Yes.
15:56:31 3
15:56:31 4 Now that was a client of Ms Gobbo's?---Yes.
15:56:34 5
15:56:35 6 And Ms Gobbo informed you that that person was prepared to
15:56:39 7 make a statement against two other individuals?---Correct.
15:56:43 8
15:56:44 9 Did she contact you directly? It says you had contact with
15:56:52 10 Ms Gobbo about her client?---Yeah, it would have been a
15:56:55 11 contact driven by Ms Gobbo to me. It would not have been
15:56:59 12 me contacting her.
15:57:00 13
15:57:00 14 This is not unusual, I take it, in that this is not
15:57:03 15 necessarily information, this is a barrister saying, "I've
15:57:05 16 got a client who's prepared to give some information about
15:57:09 17 some people"?---Correct, as you say, it's not unusual for a
15:57:13 18 barrister to bring forward a client to make a statement.
15:57:16 19
15:57:16 20 All right. Then on the dates after that you had contact,
15:57:23 21 some of it attempted contact with Ms Gobbo in relation to
15:57:27 22 that person making a statement; is that right?---Yes, on 18
15:57:32 23 January I returned a missed call from Ms Gobbo who had
15:57:35 24 reached out to me.
15:57:38 25
15:57:40 26 Essentially the nature of the information wasn't the sort
15:57:43 27 of information that you yourself would deal with but you'd
15:57:50 28 give it to another part of Purana, is that what happened
15:57:54 29 here?---That's correct.
15:57:54 30
15:57:55 31 And that's because of the type of activity that she was
15:57:58 32 reporting, that her client was reporting on?---That's
15:58:00 33 correct.
15:58:00 34
15:58:01 35 Okay. The person that she had offered to speak to you, and
15:58:11 36 that person had offered to provide information, do you know
15:58:14 37 whether that person ever did provide a statement in
15:58:18 38 relation those two individuals?---I believe in the end
15:58:29 39 Ms Gobbo with the client prepared a statement and forwarded
15:58:32 40 it through. I then provided that to our [REDACTED]
15:58:37 41 [REDACTED] for their consideration because it was [REDACTED]
15:58:42 42 related, as opposed to what my focus was at the time, was
15:58:46 43 drug related investigations.
15:58:48 44
15:58:49 45 Okay. The answer to the question is you don't really know
15:58:53 46 whether or not that statement was signed and then
15:58:57 47 provided?---I don't have a recollection of whether it was

15:58:59 1
15:59:05 2
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15:59:32 14
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15:59:41 16
15:59:41 17
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16:00:22 37
16:00:22 38
16:00:26 39
16:00:33 40
16:00:39 41
16:00:45 42
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16:00:56 47

signed and I believe if he did give evidence it would have been on behalf of another team, it certainly wasn't on behalf of my team.

Yes, I see.

[REDACTED]

16:00:58 1
16:01:02 2
16:01:04 3
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16:01:20 9
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16:03:08 40
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16:03:19 42
16:03:25 43
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MS ARGIROPOULOS: Thank you.

MR WOODS: Just moving through your statement. At paragraph 62 you address - you were asked a question, questions 9 to 11 of the statement request, about concerns that you might have in relation to Ms Gobbo and you've talked about some of those earlier and you say that at the time you thought safeguards and processes were in place to manage the risk. At paragraph 63 you say that you believe that there were some concerns held by certain members of Victoria Police who knew that Ms Gobbo was a registered human source, that she may have been providing information back to organised crime networks or individuals within those networks. "By this I mean some of the Purana Task Force were concerned that Ms Gobbo may have been gathering information about police investigations for the benefit of members of organised crime syndicates", and that's your evidence at paragraph 63; is that right?---Correct.

The concern was that while Victoria Police were mining information from Ms Gobbo that Victoria Police were concerned, or at least some of these members were concerned that she was providing information back to criminals?---It was certainly something that was considered.

Is it something that you thought about?---Yes.

And was it a concern that you personally held?---After I received two separate pieces of information.

And they're the two pieces of information you talk about at paragraphs 65 and 66 of your statement?---Yes. Yes, it is, yes.

So once you received that information, this is in April 2006, you started to have some concerns about the flow of information back the other way?---It was probably more something that needed to be considered and it was a conversation I had with members of the immediate team and I think I articulated that I brought it to the attention of - on the one occasion.

Yes?---To Detective Inspector O'Brien and no doubt it was - I would assume Mr O'Brien would have passed it on to the

16:03:39 1 Source Development Unit for their consideration.
16:03:40 2
16:03:41 3 All right. Now you have looked for some information -
16:03:47 4 sorry, for emails that might be relevant and you've located
16:03:52 5 two I think that are referred to in your statement, there's
16:03:56 6 claims over by Victoria Police, they're referred to earlier
16:04:02 7 in your statement. Is that right, in reviewing the
16:04:05 8 materials you identified two relevant emails or were there
16:04:09 9 more than that?---There were more than that from my memory.
16:04:12 10
16:04:12 11 Okay?---There may be only two perhaps referenced.
16:04:17 12
16:04:17 13 But there is email correspondence that as part of putting
16:04:19 14 your statement together you've viewed and you've decided
16:04:22 15 were relevant to the questions that were asked of
16:04:25 16 you?---Relevant to the broader inquiry.
16:04:28 17
16:04:28 18 Yes?---And they've been provided to our lawyers.
16:04:30 19
16:04:31 20 Okay, good. We're not able to identify, there's some email
16:04:36 21 exchanges between you and Ms Gobbo that you reference in
16:04:39 22 your statement that we haven't received through Victoria
16:04:43 23 Police but we have received through Ms Gobbo. I assume you
16:04:48 24 don't know whether all those emails have been produced by
16:04:51 25 Victoria Police to the Royal Commission, the ones that
16:04:56 26 you've looked at that and identified are relevant to the
16:04:58 27 broader inquiry?---Am I aware that they've been - - -
16:05:02 28
16:05:02 29 Yes, do you know whether they've been produced?---No, I've
16:05:05 30 conducted some search, found some emails and provided
16:05:09 31 those.
16:05:09 32
16:05:10 33 Okay?---I'm unaware of their transition through the
16:05:13 34 pipeline.
16:05:13 35
16:05:13 36 The 2006 period where you start in February and is the
16:05:16 37 substance of a lot of your statement into late 2006, you're
16:05:22 38 not able to locate or obtain any emails from
16:05:29 39 pre-2007?---That's correct.
16:05:29 40
16:05:31 41 That's a peculiarity of the system, is that across the
16:05:34 42 board for everyone at Victoria Police?---That's my
16:05:37 43 understanding from the information I've received from Task
16:05:42 44 Force Landow, that they've been unable to source emails
16:05:45 45 prior to 2007.
16:05:47 46
16:05:48 47 Do you know if any work's being done on that to try and

16:05:52 1 source those emails?---That's not something I'm aware of.
16:05:55 2
16:05:55 3 That's not part of your role?---No.
16:05:57 4
16:05:57 5 Okay. Other than the emails that you identified and the
16:06:02 6 diary entries that you've identified in your statement,
16:06:07 7 you're confident that there's no other material, except
16:06:11 8 perhaps for this pre-2007 period and emails, that you've
16:06:17 9 had access to that might be relevant to the Royal
16:06:19 10 Commission's inquiries?---Are you talking now specifically
16:06:22 11 about emails or around - - -
16:06:23 12
16:06:24 13 We know the situation with the pre-2007 emails, they can't
16:06:28 14 be located at this stage, but I'm talking about for the
16:06:31 15 purposes of putting your statement together you went
16:06:34 16 through your diaries; is that right?---Correct.
16:06:36 17
16:06:36 18 You've identified the appropriate parts of your diary that
16:06:38 19 in your view respond to the Terms of Reference?---Yes.
16:06:41 20
16:06:42 21 And you've been through a number of emails and you've done
16:06:45 22 the same thing there; is that right?---Correct.
16:06:47 23
16:06:48 24 You've identified those to Victoria Police's solicitors or
16:06:51 25 to Landow?---The ones that I could locate, yes.
16:06:54 26
16:06:54 27 Okay.
16:06:57 28
16:06:58 29 COMMISSIONER: Have they been produced, those emails? The
16:07:02 30 emails that have been located of course.
16:07:05 31
16:07:06 32 MR WOODS: No, we're not able to - there are email
16:07:10 33 references that are in the statement and I would assume
16:07:12 34 there's other emails that are responsive as well but might
16:07:16 35 not have been spoken about in the statement due to not
16:07:21 36 being straight on relevant for some of these entries. I'm
16:07:21 37 not able to find on our system the document numbers that
16:07:25 38 are referred to in the statement. So I think whilst
16:07:30 39 they've been received they might not have gone through the
16:07:33 40 formal production process as yet.
16:07:36 41
16:07:36 42 COMMISSIONER: Ms Argiropoulos, Victoria Police will
16:07:38 43 corporate in identifying those for the Commission legal
16:07:40 44 team?
16:07:41 45
16:07:42 46 MS ARGIROPOULOS: Absolutely, Commissioner. I'm just
16:07:45 47 trying to get some instructions over the Bar table about

16:07:47 1 the status of emails. I refer my learned friend to
16:07:51 2 paragraph 15 where the witness described some of the
16:07:53 3 difficulties in terms of emails, but certainly any emails
16:07:57 4 that are referred to in the statement can be produced if
16:08:00 5 they haven't already.
16:08:01 6
16:08:01 7 COMMISSIONER: I think the witness did say that he produced
16:08:04 8 some to the legal team.
16:08:06 9
16:08:06 10 MS ARGIROPOULOS: Yes.
16:08:06 11
16:08:07 12 COMMISSIONER: They're the ones that obviously the
16:08:09 13 Commissioner's legal team would like to see.
16:08:12 14
16:08:12 15 MS ARGIROPOULOS: Yes, certainly.
16:08:13 16
16:08:13 17 COMMISSIONER: I'd expect you to sort that out and if
16:08:17 18 necessary they can be tendered.
16:08:18 19
16:08:19 20 MS ARGIROPOULOS: Yes Commissioner.
16:08:19 21
16:08:19 22 COMMISSIONER: In due course.
16:08:23 23
16:08:24 24 MR WOODS: The ones that I was looking for are those at
16:08:27 25 paragraph 51 of the statement that I wasn't able to locate
16:08:32 26 on the system.
16:08:33 27
16:08:34 28 I'll let you go in a moment, Mr Kelly. You received
16:08:38 29 training in relation to your obligations of prosecution
16:08:43 30 disclosure throughout your career at least at some stage;
16:08:48 31 is that right?---I believe I would have, yes. I don't have
16:08:50 32 a specific recollection of the training but I believe it
16:08:56 33 would have been embedded along the journey.
16:08:59 34
16:08:59 35 And disclosure - you've been an informant, I assume, in a
16:09:03 36 number of prosecutions?---Correct.
16:09:04 37
16:09:05 38 Okay. And disclosure is primarily undertaken through the
16:09:10 39 police brief?---Correct.
16:09:12 40
16:09:14 41 The primary responsibility for the collation of the brief
16:09:20 42 is generally the informant; is that right?---That's
16:09:22 43 correct.
16:09:22 44
16:09:22 45 And they might have a team of people around them who
16:09:26 46 assist?---Hopefully.
16:09:27 47

16:09:27 1 And an important part of the task of the assembly of the
16:09:33 2 brief of evidence is to determine, firstly, what documents
16:09:38 3 are going to assist in the prosecution of the matter, you
16:09:40 4 agree with that?---Yes.
16:09:41 5
16:09:41 6 And secondly, any documents that are held by the
16:09:47 7 prosecutorial authority that might assist the accused in
16:09:51 8 relation to their defence?---Yes.
16:09:53 9
16:09:55 10 Right. You also say in your statement that along the way
16:09:58 11 you've received training in relation to legal professional
16:10:02 12 privilege?---Yes.
16:10:03 13
16:10:04 14 And the effect of legal professional privilege is in
16:10:10 15 essence that something that's said between a lawyer and
16:10:15 16 their client isn't to be said outside that relationship
16:10:19 17 unless the client says so, that's a fair summation in your
16:10:22 18 understanding?---Agree.
16:10:23 19
16:10:24 20 Can I suggest that it was that precise understanding that
16:10:31 21 you had in 2006 when Ms Gobbo turned up to speak to those
16:10:35 22 two individuals that gave you discomfort, because of the
16:10:41 23 information she had provided previously that you knew she'd
16:10:44 24 provided, was that part of your discomfort?---The scenario
16:10:51 25 was unique in that you had a human source who assisted in
16:10:57 26 locating a clandestine laboratory but then at the same time
16:11:02 27 was representing or attended to engage with the person who
16:11:08 28 had been arrested.
16:11:09 29
16:11:09 30 And you would accept if you were the person who was putting
16:11:14 31 that brief of evidence together that it would be something
16:11:16 32 that should be disclosed to the accused person, that the
16:11:20 33 source of the information that led to their arrest was
16:11:23 34 their own barrister. That's the sort of thing that should
16:11:27 35 be included in a prosecution brief in that peculiar
16:11:30 36 situation?---No, I wouldn't necessarily agree with that.
16:11:33 37
16:11:34 38 So you wouldn't tell the accused that their barrister had
16:11:37 39 provided information against them?---No.
16:11:39 40
16:11:40 41 Have you got a reason for that?---All our training, policy
16:11:45 42 and practices is the protection of human sources is
16:11:50 43 paramount and the disclosure of Ms Gobbo on a brief of
16:11:55 44 evidence would go against our policies and practices in
16:12:01 45 terms of protecting the identity of that human source.
16:12:05 46
16:12:05 47 So if you were faced with these peculiar set of events

16:12:08 1 tomorrow, despite what the High Court said about this
16:12:12 2 relationship, you still wouldn't disclose it, is that what
16:12:16 3 your evidence is?---If this scenario occurred tomorrow I
16:12:19 4 would suggest I'd be seeking legal advice.
16:12:20 5
16:12:20 6 And that they should have sought legal advice back in the
16:12:24 7 day, it might have made things a bit easier for everyone
16:12:27 8 now, do you agree with that?---Well, in hindsight I think
16:12:30 9 that's perhaps something that needs to form part of the
16:12:35 10 inquiry.
16:12:35 11
16:12:36 12 Are you aware of any practices within Purana of the
16:12:44 13 deliberate redacting of Ms Gobbo's name or things that
16:12:53 14 might identify her in briefs of evidence, or materials that
16:12:57 15 were disclosed to accused people?---Not that I'm aware of
16:13:03 16 in terms of briefs of evidence that I prepared.
16:13:06 17
16:13:10 18 Not by you but by others within Purana, that there was an
16:13:15 19 active - well, I mean it must be the case, I take it, that
16:13:19 20 if based on your evidence it was acceptable as you
16:13:23 21 understood it at the time not to disclose that Ms Gobbo was
16:13:26 22 a source of information in a brief of evidence because she
16:13:29 23 was a human source?---I'm trying to describe your scenario
16:13:37 24 but if somebody had written Ms Gobbo's name into a diary
16:13:45 25 containing that she provided information, then it may have
16:13:48 26 been redacted but not that I can sit here and reflect and -
16:13:52 27 - -
16:13:52 28
16:13:52 29 But your evidence a moment ago is that that relationship of
16:13:55 30 the human source would trump any disclosure obligations
16:14:00 31 anyway?---My position is we would not, or I would not put a
16:14:08 32 human source's name on the front of a brief of evidence in
16:14:11 33 relation to disclosure because it goes against our training
16:14:16 34 and our practices and processes.
16:14:21 35
16:14:21 36 Even if the information they were providing was in clear
16:14:24 37 breach of their obligations to their client, you still
16:14:29 38 wouldn't do it?---No. As I said, if the scenario presented
16:14:35 39 itself I'd suggest I'd be seeking advice.
16:14:38 40
16:14:39 41 They're the questions, thank you Commissioner.
16:14:41 42
16:14:41 43 COMMISSIONER: Yes?---Just one issue in relation to my
16:14:46 44 statement. There was one matter I raised with my lawyers
16:14:48 45 in relation to an issue that I think needed to be included.
16:14:55 46 I don't know whether that's something that - - -
16:14:57 47

16:14:58 1 MR WOODS: It's been discussed with me, only over the lunch
16:15:00 2 break. It can be dealt with, Mr Kelly - - -
16:15:04 3
16:15:04 4 COMMISSIONER: In the confidential statement?
16:15:07 5
16:15:07 6 MR WOODS: That's right.
16:15:07 7
16:15:07 8 COMMISSIONER: You'll be giving evidence again in possibly
16:15:12 9 a closed hearing about some other matters.
16:15:15 10
16:15:15 11 MR WOODS: Because it's come up on the run I thought it was
16:15:20 12 best to put it off until then.
16:15:22 13
16:15:22 14 COMMISSIONER: All right then.
15
16 MR WOODS: They're the questions, Commissioner.
17
16:15:23 18 COMMISSIONER: Mr Collinson, do you have any questions?
16:15:25 19
16:15:26 20 MR COLLINSON: Commissioner, I have ten minutes of
16:15:28 21 questions. Would it be convenient to ask them now?
22
23 COMMISSIONER: I think so because I don't - this witness
24 won't be coming back tomorrow or is he going to come back
16:15:34 25 tomorrow to deal with the second part of his evidence?
16:15:34 26
16:15:34 27 MS ARGIROPOULOS: He's available to return tomorrow,
16:15:36 28 Commissioner.
16:15:36 29
16:15:37 30 COMMISSIONER: Mr Woods, are we in a position to deal with
16:15:40 31 the second part of his evidence?
16:15:42 32
16:15:43 33 MR WOODS: I don't believe so because there's someone who -
16:15:46 34 a party who needs to be put on notice, who I think might
16:15:50 35 have been put on notice while I've been on my feet.
16:15:53 36
16:15:53 37 COMMISSIONER: Is that the legal representative of the
16:15:57 38 person to whom that evidence is relevant?
16:16:00 39
16:16:00 40 MR WOODS: Yes.
16:16:01 41
16:16:01 42 COMMISSIONER: Has that person been informed and available
16:16:04 43 tomorrow, that's what we need to know I suppose?
16:16:07 44
16:16:08 45 MR WOODS: We don't know. We've sent a message to Victoria
16:16:10 46 Police to say we want to give both the statement and the
16:16:13 47 proposed orders to that person's representative. I've

16:16:15 1 spoken to the person's representative who's happy to
16:16:19 2 receive them. We just wanted to make sure given the nature
16:16:22 3 of the information that that's done.
16:16:23 4
16:16:24 5 COMMISSIONER: That was supposed to be looked at over lunch
16:16:27 6 I think. Ms Argiropoulos?
16:16:28 7
16:16:29 8 MS ARGIROPOULOS: Yes, I understood that had been
16:16:30 9 communicated. I may be wrong. I'm instructed that the
16:16:37 10 person is able to inspect those documents at my
16:16:40 11 instructor's office.
16:16:42 12
16:16:43 13 MR WOODS: Can inspect them, we can't give copies?
16:16:46 14
16:16:46 15 MS ARGIROPOULOS: They're the instructions I'm receiving
16:16:48 16 over the Bar table.
16:16:49 17
16:16:49 18 MR WOODS: Okay.
16:16:50 19
16:16:50 20 COMMISSIONER: This is just the orders sought.
16:16:53 21
16:16:54 22 MR WOODS: Well the order sought and the confidential
16:17:00 23 affidavit.
16:17:00 24
16:17:00 25 MS ARGIROPOULOS: The further statement rather than the
16:17:01 26 confidential affidavit.
16:17:02 27
16:17:03 28 MR WOODS: Sorry, further statement.
16:17:04 29
16:17:04 30 MS ARGIROPOULOS: It's the confidential further statement.
16:17:05 31 So not the confidential affidavit. The statement together
16:17:10 32 with the orders can be made available for inspection by
16:17:15 33 that person's lawyer.
16:17:16 34
16:17:17 35 COMMISSIONER: But do we know if that person's lawyer is
16:17:20 36 available tomorrow to be present for the examination?
16:17:27 37 Because that's what we need to know to decide whether the
16:17:32 38 witness can come back tomorrow.
16:17:34 39
16:17:34 40 MR WOODS: We'd like to just provide them a copy of the
16:17:36 41 statement. I mean they're a legal practitioner. They've
16:17:40 42 got - - -
16:17:40 43
16:17:41 44 COMMISSIONER: Before we do that it would still be useful
16:17:50 45 to know if they're available tomorrow. Has anyone asked
16:17:52 46 that question?
16:17:54 47

16:17:54 1 MR WOODS: No, the solicitors assisting will contact that
16:17:57 2 person now, the solicitor now, and see if they're available
16:18:00 3 tomorrow.
16:18:00 4
16:18:00 5 COMMISSIONER: All right. If we could do that and then,
16:18:03 6 Mr Collinson, perhaps you could continue your questioning.
16:18:06 7
16:18:07 8 MR CHETTLE: Commissioner, can I say I'll be seeking leave
16:18:10 9 to cross-examine this witness given the matters that arose,
16:18:15 10 probably about 15 minutes as well. Again, I've expressed
16:18:19 11 the concern before to you about having been squeezed out at
16:18:24 12 the end of the day. It always seems to happen.
16:18:26 13
16:18:26 14 COMMISSIONER: Poor Mr Chettle.
16:18:27 15
16:18:27 16 MR CHETTLE: I know. But I'm prepared to stay until 6 if
16:18:30 17 you are.
16:18:32 18
16:18:32 19 COMMISSIONER: All right. Well, assuming that the person's
16:18:38 20 legal representative is available tomorrow to deal with
16:18:43 21 that other matter, that person should be given, upon the
16:18:50 22 usual undertaking to be expected, that person should be
16:18:55 23 given a copy of the confidential material, probably on the
16:19:03 24 basis that at this stage it remains - the lawyer does not
16:19:12 25 discuss it with the client? Would that be appropriate?
16:19:15 26
16:19:16 27 MR WOODS: I don't think that's necessary given what I
16:19:17 28 understand the situation to be. I think that lawyer is
16:19:19 29 able to discuss it openly with their client, yes. I don't
16:19:24 30 think any - - -
16:19:25 31
16:19:26 32 COMMISSIONER: You're not asking for that order?
16:19:27 33
16:19:28 34 MS ARGIROPOULOS: No, that's not being sought. I don't
16:19:29 35 wish to descend into the details in a public hearing but
16:19:32 36 I've had communications with my learned friend.
16:19:34 37
16:19:34 38 COMMISSIONER: I understand.
16:19:35 39
16:19:35 40 MS ARGIROPOULOS: About the situation as we understand it
16:19:37 41 to be.
16:19:37 42
16:19:38 43 MR WOODS: It should be that we can give it to the others
16:19:42 44 at the Bar table as well.
16:19:43 45
16:19:44 46 COMMISSIONER: With the usual undertaking?
16:19:47 47

16:19:48 1 MR WOODS: Who have given an undertaking.
16:19:50 2
16:19:50 3 COMMISSIONER: Yes. Is that all right, Ms Argiropoulos?
16:19:54 4
16:19:55 5 MS ARGIROPOULOS: I've just been provided with instructions
16:19:57 6 that Victoria Police is content for that person's lawyer to
16:20:01 7 be provided with a copy of the confidential further
16:20:04 8 statement, subject to an undertaking not to copy and to
16:20:10 9 return it after the hearing tomorrow.
16:20:15 10
16:20:18 11 COMMISSIONER: Have the others at the Bar table got a copy
16:20:20 12 of the statement? They need to be given it too. We can
16:20:25 13 discuss whether that needs to be returned tomorrow.
16:20:33 14
16:20:33 15 MS ARGIROPOULOS: The process, as we had envisaged it, was
16:20:39 16 that we'd be asking the Commissioner to make the orders
16:20:42 17 that were sought before it was provided to any other person
16:20:45 18 in terms of the way that that evidence will be dealt with.
16:20:52 19
16:20:52 20 COMMISSIONER: Yes, that probably seems appropriate to make
16:21:03 21 those orders. What do you say, Mr Woods?
16:21:05 22
16:21:05 23 MR WOODS: I just think if I was representing the
16:21:07 24 individual I would want to have a say in the orders before
16:21:09 25 they were made. I think that would be fair in the
16:21:11 26 circumstances.
16:21:12 27
16:21:13 28 COMMISSIONER: That's true. That's true.
16:21:15 29
16:21:16 30 MS ARGIROPOULOS: I accept that as well, Commissioner.
16:21:17 31
16:21:18 32 COMMISSIONER: That's right, all right. We may be able to
16:21:23 33 - we'll want to finish the cross-examination on this part
16:21:25 34 of the statement tomorrow in any case so we will need you
16:21:28 35 back tomorrow to do that?---Yes, Commissioner.
16:21:31 36
16:21:31 37 Whether we can deal with the other matter or not we'll just
16:21:34 38 have to wait to find out. Then what other witnesses have
16:21:37 39 we got tomorrow?
16:21:39 40
16:21:40 41 MR WOODS: That is under discussion at the moment. There's
16:21:42 42 a couple of possibilities who we don't have diaries for and
16:21:48 43 we don't want to call them without their diaries. There
16:21:52 44 are some others that are subject to the matters under
16:21:57 45 discussion in the Court of Appeal, that until those matters
16:22:01 46 are resolved we can't call them in public hearing and our
16:22:05 47 preference is to do so. So we might need to have a think

16:22:08 1 about that. I'm not sure whether that's been determined.
16:22:16 2 We'll start with Mr Kelly and we'll do our best to organise
16:22:21 3 someone else overnight.
16:22:22 4
16:22:22 5 COMMISSIONER: People will want notice as to what other
16:22:25 6 witnesses are going to be called.
16:22:27 7
16:22:27 8 MR WOODS: We're keen to give them that notice. We're
16:22:30 9 under some difficulty with some of the witnesses because of
16:22:33 10 the provision of information.
16:22:35 11
16:22:35 12 COMMISSIONER: All right then.
16:22:37 13
16:22:37 14 MR CHETTLE: Can I say, Commissioner, if I don't have a
16:22:39 15 name I can't do a search, I can't get the material I'll
16:22:42 16 need to do the cross-examination.
16:22:44 17
16:22:44 18 COMMISSIONER: I don't even know, Mr Chettle.
16:22:46 19
16:22:46 20 MR CHETTLE: I know.
16:22:46 21
16:22:47 22 COMMISSIONER: It's a magical mystery tour.
16:22:49 23
16:22:49 24 MR WOODS: Just before Mr Kelly finishes, I just do have
16:22:52 25 one last question if it's appropriate now, then I won't
16:22:56 26 have to ask him anything tomorrow as things stand. Is that
16:22:58 27 appropriate, Commissioner?
16:22:59 28
16:23:00 29 COMMISSIONER: Yes, that's all right.
16:23:01 30
16:23:01 31 MR WOODS: Mr Kelly, in relation to your statement, had you
16:23:03 32 prepared a previous statement for the assistance of
16:23:05 33 Victoria Police and their solicitors and Landow prior to
16:23:09 34 this one?---I'd prepared an introduction, if you like, that
16:23:19 35 was provided to my lawyers which was then encapsulated - -
36 -
16:23:24 37 Incorporated into this?---Correct.
16:23:27 38
16:23:27 39 How long was that document?---From memory maybe a couple of
16:23:32 40 pages, if that.
16:23:33 41
16:23:33 42 So only a couple of pages?---Yep.
16:23:34 43
16:23:35 44 Do you know if it's all been incorporated into this?---I
16:23:38 45 believe so.
16:23:38 46
16:23:40 47 Thank you. I might get you to bring that along tomorrow if

16:23:46 1 that's all right. Thank you.
16:23:47 2
16:23:47 3 COMMISSIONER: All right. We'll adjourn until - - -
16:23:51 4
16:23:51 5 MR COLLINSON: Just before we adjourn, Mr Nathwani and I
16:23:54 6 are becoming very experienced at cross-examining on witness
16:24:00 7 statements we receive on the same day as the
16:24:01 8 cross-examination but swimming through the fog that I'm
16:24:03 9 hearing, I understand there's a second statement. Why
16:24:05 10 can't that be given to us now to look at?
16:24:09 11
16:24:09 12 COMMISSIONER: I have asked that that be done, it should be
16:24:11 13 provided.
16:24:11 14
16:24:12 15 MR COLLINSON: Whenever the Commissioner asks those
16:24:14 16 questions the answer is always "we need to get
16:24:17 17 instructions" and then nothing happens.
16:24:18 18
16:24:18 19 COMMISSIONER: All right. I'm directing it be provided
16:24:21 20 to - - -
16:24:22 21
16:24:23 22 MR COLLINSON: If they want it given to us in a password,
16:24:26 23 electronically, whatever they want.
16:24:28 24
16:24:28 25 COMMISSIONER: - - - the barristers at the Bar table. Have
16:24:30 26 you got the proposed orders, Mr Collinson?
16:24:32 27
16:24:32 28 MR COLLINSON: The earlier order I foreshadowed this
16:24:34 29 morning or - - -
16:24:35 30
16:24:35 31 COMMISSIONER: Proposed orders in respect of this
16:24:40 32 confidential statement.
16:24:44 33
16:24:44 34 MR COLLINSON: No, the application I foreshadowed this
16:24:47 35 morning had a broader nature. This is just specific.
16:24:50 36
16:24:51 37 COMMISSIONER: Yes, it is just specific.
16:24:54 38
16:24:54 39 MR COLLINSON: To this particular document. I'm happy to
16:24:56 40 keep it that narrow for the time being.
16:24:59 41
16:24:59 42 MS ARGIROPOULOS: I may have misunderstood. I thought the
16:25:02 43 Commissioner did not want to make those orders which would
16:25:05 44 allow for the provision of the statement to other parties.
16:25:07 45
16:25:08 46 COMMISSIONER: I'm not making the orders but they're seeing
16:25:10 47 the proposed orders, the orders that you want to make, so

16:25:12 1 they can have a look at them tomorrow before they're
16:25:17 2 required to make input on it.
16:25:19 3
16:25:19 4 MS ARGIROPOULOS: There's no difficulty with the provision
16:25:21 5 of the proposed orders. My understanding is that
16:25:23 6 Mr Collinson wishes to see the confidential further
16:25:26 7 statement.
16:25:26 8
16:25:27 9 MR COLLINSON: Yes.
16:25:27 10
16:25:27 11 COMMISSIONER: Of this witness.
16:25:29 12
16:25:30 13 MS ARGIROPOULOS: Of this witness, and that's the matter
16:25:31 14 which Victoria Police submits should not occur until the
16:25:35 15 orders are made and as I understand the Commissioner's view
16:25:39 16 is appropriately that the - - -
16:25:41 17
16:25:41 18 COMMISSIONER: He's named in the order so he needs to - - -
16:25:43 19
16:25:44 20 MS ARGIROPOULOS: The person, that's right, the
16:25:46 21 person's - - -
16:25:46 22
16:25:46 23 COMMISSIONER: So is Mr Collinson, isn't he, in effect?
16:25:56 24
16:25:56 25 MS ARGIROPOULOS: He's named as a person who would be able
16:25:58 26 to have access to the statement.
16:25:58 27
16:25:59 28 COMMISSIONER: So I think he needs to see the order, the
16:26:00 29 proposed orders before they're made. We're a dog chasing
30 its tail.
31
32 MS ARGIROPOULOS: Yes. No problem with that.
33
34
16:26:01 35 COMMISSIONER: So he sees the proposed orders. You don't
16:26:02 36 want him to get the confidential statement until the orders
16:26:05 37 are made.
16:26:06 38
16:26:07 39 MS ARGIROPOULOS: That's correct. As I understand the
16:26:08 40 Commissioner's indicated that the person's lawyer should
16:26:11 41 have an opportunity to be heard before those orders are
16:26:14 42 made. I do apologise, I'm not trying to be difficult but
16:26:17 43 it just appears to me that unfortunately we can't provide
16:26:22 44 the further confidential statement of this witness at this
16:26:28 45 stage.
16:26:28 46
16:26:29 47 MR COLLINSON: Commissioner, I'm not interested in the

16:26:30 1 orders, I don't want to see those. I just want to see the
16:26:34 2 statement.
16:26:34 3
16:26:34 4 COMMISSIONER: No, they won't show the statement until the
16:26:37 5 orders are made, you see. We're a dog chasing its tail
16:26:41 6 here.
16:26:42 7
16:26:42 8 MR COLLINSON: Yes. I don't understand why that has to be
16:26:43 9 so.
16:26:43 10
16:26:43 11 COMMISSIONER: Which order is the problem? Which order has
16:26:46 12 to be made before they can be given the confidential
16:26:51 13 affidavit? You don't want it disseminated, et cetera?
16:27:00 14
16:27:01 15 MS ARGIROPOULOS: Yes, that's correct. In relation to
16:27:05 16 non-publication obviously and non-dissemination
16:27:10 17 beyond - - -
16:27:11 18
16:27:11 19 COMMISSIONER: That's why I said it would be subject to the
16:27:13 20 usual undertakings. So they would give an undertaking. So
16:27:17 21 before they would be given the confidential statement they
16:27:20 22 would give the undertaking that they would not disseminate
16:27:24 23 to anybody - - -
16:27:32 24
16:27:33 25 MR NATHWANI: Commissioner, can I cut through this. We
16:27:35 26 provided an undertaking provided to Mr Holt and those who
16:27:38 27 instruct my learned friend that includes a schedule. The
16:27:42 28 schedule reads this, this is the second part which this
16:27:44 29 would fall under, "Any other documents provided to me by
16:27:48 30 VicPol or its lawyers, them, on the condition the documents
16:27:51 31 provided subject to this undertaking", that would cover it.
16:27:53 32
16:27:54 33 COMMISSIONER: The undertaking is to?
16:27:56 34
16:27:56 35 MR NATHWANI: It's signed by - - -
16:27:57 36
16:27:58 37 COMMISSIONER: What is it, to keep it confidential?
16:28:00 38
16:28:02 39 MR NATHWANI: To keep it confidential and they've had it
16:28:05 40 for a long time.
41
42 COMMISSIONER: That seems sufficient.
43
16:28:08 44 MR NATHWANI: It was provided by Mr Holt and we signed it.
16:28:12 45
16:28:13 46 COMMISSIONER: And similar undertaking from the State and
16:28:17 47 the DPP and the person's lawyer, so once you've got that

16:28:18 1 then that's not an issue, so as I said at the beginning,
16:28:19 2 subject to the usual expected undertakings they can have
16:28:23 3 access to it. All right.
16:28:25 4
16:28:25 5 MS ARGIROPOULOS: If the Commissioner pleases.
16:28:27 6
16:28:27 7 COMMISSIONER: Thank you. Mr Winneke.
16:28:28 8
16:28:29 9 MR WINNEKE: Commissioner, it's our desire to call
16:28:32 10 Mr Swindells tomorrow. I understand the parties at the
16:28:35 11 table have his statement. He's the subject of a notice to
16:28:37 12 attend. We're ready to call him. We have his diaries.
16:28:41 13 We'd like to call him. There's another person who we would
16:28:45 14 like to call who we've got a statement from last night, a
16:28:49 15 Mr Trichias. We haven't been provided with his diaries
16:28:55 16 however we would wish to call him. There are two people
16:28:59 17 who we would wish to be available and are available to call
16:29:01 18 tomorrow. That's the situation.
16:29:02 19
16:29:03 20 COMMISSIONER: They've been on your list that you provided
16:29:05 21 a couple of weeks ago to the State?
16:29:09 22
16:29:09 23 MR WINNEKE: Yes.
16:29:09 24
16:29:10 25 COMMISSIONER: To the VicPol rather. We've been waiting
16:29:12 26 for Mr Trichias' diaries for quite some time and statement.
16:29:16 27 We got the statement last night. We're happy to provide it
16:29:19 28 in a redacted form to people at the Bar table. And we're
16:29:25 29 happy to go on and have the witness called. If the diaries
16:29:31 30 can be produced to the hearing tomorrow we'll deal with it.
16:29:34 31 If we need to call him back we'll do so but those two
16:29:36 32 people we'd like to have tomorrow.
16:29:36 33
16:29:37 34 COMMISSIONER: Hopefully you can get the diaries overnight.
16:29:40 35 One would hope.
16:29:41 36
16:29:43 37 MR WINNEKE: One would hope so. In any event, that's what
16:29:45 38 we propose to do. Both are the subject of a notice to
16:29:49 39 attend.
16:29:50 40
16:29:50 41 MR HANNEBERY: Mr Trichias should be okay. In relation to
16:29:53 42 Mr Swindells there's some particular medical issues there
16:30:01 43 that meant that next week was going to be the time he would
16:30:04 44 be scheduled and there was going to be some material in
16:30:04 45 relation to that that's been provided.
16:30:05 46
16:30:06 47 MR WINNEKE: Can we get a bit more information. We

16:30:10 1 understand that there's a medical which is a sensitivity
16:30:11 2 but we're happy to have his evidence over the telephone.
16:30:13 3 We're doing everything we can to accommodate him. It
16:30:18 4 doesn't matter where he is, where he's calling from. We're
16:30:22 5 happy to hear from him on a telephone. If that can't be
16:30:26 6 arranged I'd be most surprised but in any event that's what
16:30:28 7 - - -

16:30:28 8
16:30:28 9 COMMISSIONER: All right. We now know where we're
16:30:33 10 hopefully heading tomorrow. Mr Swindells I know, I've read
16:30:35 11 in the material, and there's a health problem there which
16:30:37 12 we'll do our very best to accommodate and we don't want him
16:30:41 13 subject to any unnecessary stress. Tell him that we'll try
16:30:45 14 and accommodate him. Let's see whether we're in a position
16:30:48 15 to finish this witness tomorrow, that's a possibility.
16:30:50 16 Mr Trichias isn't a problem, so we have Mr Trichias to go
16:30:54 17 on with it and we'll aim after that for Swindells. We need
16:30:59 18 the Trichias diaries, hopefully someone can provide them
16:31:03 19 electronically overnight, at least in an un-PIIed form,
16:31:13 20 they need to be. All right then, we'll adjourn until 10
16:31:17 21 o'clock tomorrow.

16:31:53 22
16:31:53 23 <(THE WITNESS WITHDREW)

16:31:54 24
16:31:55 25 ADJOURNED UNTIL THURSDAY 20 JUNE 2019

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