

ROYAL COMMISSION INTO THE MANAGEMENT
OF POLICE INFORMANTS

Held in Melbourne, Victoria

On Wednesday, 22 May 2019

Led by Commissioner: The Honourable Margaret McMurdo AC

Also present:

Counsel Assisting:	Mr C. Winneke QC Mr A. Woods Ms M. Tittensor
Counsel for Victoria Police	Mr S. Holt QC Ms R. Enbom Ms K. Argiropoulos
Counsel for State of Victoria	Ms C. McCudden. Ms E. Hilliard
Counsel for Nicola Gobbo	Mr P. Collinson QC Mr R. Nathwani
Counsel for DPP/SPP	Mr P. Doyle
Counsel for the CDPP	Ms C. Fitzgerald
Counsel for Person 12	Mr A. Furstenberg
Counsel for Paul Dale	Mr G. Steward
Counsel for Andrew Hodson and Mandy Leonard	Mr M. Koh

10:13:13 1 COMMISSIONER: Yes, I'll take appearances, noting that the
10:13:18 2 first witness we'll be dealing with is Person 12.
10:13:22 3 Appearances, Mr Winneke?
10:13:24 4
10:13:24 5 MR WINNEKE: Yes, Commissioner, I appear with Mr Woods and
10:13:27 6 Ms Tittensor.
10:13:27 7
10:13:28 8 COMMISSIONER: Thank you. Mr Collinson and Mr Nathwani for
10:13:31 9 Nicola Gobbo. Mr Holt with Ms Argiropoulos and Ms Enbom.
10:13:41 10 Mr Furstenberg for Person 12.
10:13:45 11
10:13:47 12 MS McCUDDEN: Ms McCudden.
10:13:48 13
10:13:49 14 COMMISSIONER: Thank you. Mr Doyle for the DPP. I think
10:13:52 15 they're the only appearances we need for the purposes of
10:13:55 16 taking Person 12's evidence. If I could ask you, please,
10:13:59 17 to go into the witness box. You took an oath yesterday,
10:14:04 18 you're still on your oath that you took yesterday.
10:14:08 19
10:14:09 20 MR FURSTENBERG: Sorry, Commissioner, can I confirm that
10:14:10 21 the live stream is not on at the moment?
10:14:14 22
10:14:15 23 COMMISSIONER: Yes. Can I confirm that my orders are being
10:14:17 24 followed and that there's no live streaming of the witness?
10:14:21 25 There's no live streaming of the witness.
10:14:24 26
10:14:24 27 MR FURSTENBERG: Thank you, Commissioner.
10:14:27 28
10:14:28 29 <PERSON 12, recalled:
10:14:32 30
10:14:33 31 COMMISSIONER: There's no live streaming of the image of
10:14:37 32 the witness which is consistent with my order.
10:14:39 33
10:14:39 34 MR WINNEKE: Commissioner, as I understand it the order is
10:14:42 35 that there be no live streaming at all. The order was that
10:14:47 36 there would be no publication of any information that would
10:14:53 37 tend to identify Person 12 and the nature of the
10:15:00 38 questioning, the very nature of the questioning would lead
10:15:05 39 to the identification of Person 12 and therefore it would
10:15:11 40 seem that whilst the court can be open, there can be no
10:15:18 41 publication of any - - -
10:15:19 42
10:15:20 43 COMMISSIONER: I might just get the orders and check this.
10:15:22 44
10:15:22 45 MR WINNEKE: Yes.
10:16:01 46
10:16:01 47 COMMISSIONER: It should be on the door anyway, if we can

10:16:03 1 just remove it from the door for me to read. That's not
10:17:01 2 the right order I'm afraid. Does anyone have a copy of the
10:17:04 3 order?

10:17:05 4
10:17:05 5 MR FURSTENBERG: The orders were announced yesterday, it
10:17:07 6 should be on the transcript just before lunch. There was a
10:17:10 7 discussion yesterday, the written order had said there was
10:17:14 8 a prohibition on reporting. When the Commission announced
10:17:20 9 its orders it referred to publication rather than reporting
10:17:23 10 and I think, Commissioner, you confirmed that that was the
10:17:27 11 intention, that it be - - -

10:17:29 12
10:17:29 13 COMMISSIONER: That's right.

10:17:29 14
10:17:30 15 MR WINNEKE: I understood that the order was altered to
10:17:32 16 include the word "publication" as opposed to "reporting",
10:17:36 17 which were the words the Commissioner used when you
10:17:42 18 pronounced the orders.

10:17:43 19
10:17:43 20 COMMISSIONER: I've got it now. So publication of the
10:17:50 21 image of Person 12 is prohibited and there'll be no
10:17:54 22 reporting, the relevant orders are that the publication of
10:17:57 23 the image of Person 12 is prohibited and there be no
10:18:01 24 publication of any information that identifies or tends to
10:18:03 25 identify Person 12. So the question is whether the
10:18:09 26 streaming would - you'd submit, Mr Winneke, that the
10:18:16 27 streaming of the evidence, even without the image, would
10:18:18 28 tend to identify Person 12?

10:18:24 29
10:18:24 30 MR WINNEKE: Well obviously it would depend on the
10:18:26 31 questions but I'm not asking the questions, but I know what
10:18:29 32 the questions are going to be. The questions in effect
10:18:31 33 will relate to Person 12's involvement with the matters of
10:18:37 34 [REDACTED].

10:18:39 35
10:18:39 36 COMMISSIONER: All right.

10:18:40 37
10:18:41 38 MR WINNEKE: Around that issue, and you'll recall yesterday
10:18:44 39 in discussions with Mr Le Grand it was made clear and he
10:18:50 40 understood the position was that they'd have to be very
10:18:53 41 careful about reporting in such a way as not to allow - or
10:18:59 42 not to provide information which would tend to identify
10:19:02 43 him. So once there was information about Person 12 and his
10:19:09 44 association with [REDACTED], his initial offer
10:19:14 45 to provide evidence and ultimate refusal to do so, it then
10:19:19 46 becomes a relatively easy business to identify who he is
10:19:24 47 using the materials available on the Internet and so - - -

10:19:27 1
10:19:28 2 COMMISSIONER: It can be live streamed to the media
10:19:34 3 overflow room but not on the website?
10:19:38 4
10:19:39 5 MR WINNEKE: That's as I understand the position. The
10:19:40 6 court's open for anyone to come into court, the media can
10:19:43 7 be here or go into there, but it can't go into the wider
10:19:47 8 community because that would in effect be a publication.
10:19:49 9 That's my submission in any event.
10:19:51 10
10:19:52 11 COMMISSIONER: Well you say that's the practical effect of
10:19:57 12 the orders made yesterday.
10:19:58 13
10:19:58 14 MR WINNEKE: Yes.
10:19:59 15
10:19:59 16 COMMISSIONER: In that case can the image of Person 12 be
10:20:03 17 streamed to the overflow room? It's only it not being on
10:20:08 18 the website that matters.
10:20:09 19
10:20:10 20 MR WINNEKE: I think that's correct, Commissioner.
10:20:14 21
10:20:15 22 COMMISSIONER: Yes.
10:20:15 23
10:20:15 24 MR WINNEKE: It's in effect an extension of the court, it's
10:20:20 25 not a publication into the wider community. The media can
10:20:22 26 come into court, anyone can come into court.
10:20:23 27
10:20:23 28 COMMISSIONER: That seems to be a reasonable interpretation
10:20:25 29 of the orders. Does anyone have a contrary submission?
10:20:28 30
10:20:28 31 COUNSEL: No.
10:20:29 32
10:20:29 33 COMMISSIONER: No. Ms Tittensor, is this your witness?
10:20:33 34
10:20:33 35 MS TITTENSOR: It is my witness. I don't know if Mr - - -
10:20:34 36
10:20:34 37 COMMISSIONER: Was the statement prepared by
10:20:37 38 Mr Furstenberg, was it?
10:20:39 39
10:20:39 40 MS TITTENSOR: I think so.
10:20:40 41
10:20:40 42 COMMISSIONER: All right. Mr Furstenberg, if you prepared
10:20:46 43 the statement, your witness's statement was prepared by
10:20:49 44 you, you should show him a copy and we'll tender it and
10:20:52 45 then you can ask any questions you want and then
10:20:55 46 Ms Tittensor will examine him.
10:21:02 47

10:21:06 1 MR FURSTENBERG: I'm not sure if Person 12 has been sworn
10:21:08 2 in.
10:21:08 3
10:21:08 4 COMMISSIONER: He was sworn in yesterday and I've reminded
10:21:11 5 him he's on his original oath.
10:21:14 6
10:21:14 7 MR FURSTENBERG: I have a copy, not the original. I'll
10:21:16 8 undertake to get the original to the Commission in the next
10:21:19 9 day or so.
10:21:20 10
10:21:23 11 COMMISSIONER: Does anyone have an unmarked copy of the
10:21:26 12 statement?
10:21:27 13
10:21:28 14 MR FURSTENBERG: I have an unmarked copy.
10:21:30 15
10:21:30 16 COMMISSIONER: Yes, all right. Would you give that to the
10:21:32 17 witness, thanks.
10:21:53 18
10:21:53 19 MR FURSTENBERG: Person 12, do you have before you a
10:21:55 20 document that's four pages in length?---Yes, I do.
10:21:58 21
10:21:58 22 Can you just answer for the transcript?---Yes.
10:22:00 23
10:22:00 24 Is that your signature contained on the bottom of every
10:22:04 25 page and signed on the final page?---Yes.
10:22:08 26
10:22:08 27 And is that a true copy of a statement that you made on 17
10:22:13 28 May 2019?---Yes.
10:22:16 29
10:22:16 30 To this Commission?---Yes.
10:22:17 31
10:22:19 32 Are the contents of that statement true and correct to the
10:22:21 33 best of your recollection?---Yes.
10:22:22 34
10:22:23 35 Is there anything you want to change in relation to that
10:22:25 36 statement?---No.
10:22:26 37
10:22:26 38 Is there anything that you want to add?---Not that I know
10:22:30 39 of unless something comes up through the proceedings, I
10:22:33 40 don't know.
10:22:33 41
10:22:35 42 Thank you, Commissioner, I tender that statement.
10:22:37 43
10:22:38 44 #EXHIBIT RC147 - Statement of Person 12.
10:22:44 45
10:22:44 46 COMMISSIONER: I note Mr Furstenberg has undertaken to
10:22:46 47 provide the original statement to the Commission.

10:22:49 1
10:22:49 2
10:22:51 3
10:22:54 4
10:22:56 5
10:22:57 6
10:23:00 7
10:23:00 8
10:23:05 9
10:23:11 10
10:23:15 11
10:23:17 12
10:23:17 13
10:23:21 14
10:23:24 15
10:23:27 16
10:23:30 17
10:23:35 18
10:23:40 19
10:23:40 20
10:23:40 21
10:23:44 22
10:23:45 23
10:23:47 24
10:23:47 25
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10:23:51 29
10:23:55 30
10:23:58 31
10:24:03 32
10:24:04 33
10:24:05 34
10:24:07 35
10:24:08 36
10:24:12 37
10:24:16 38
10:24:17 39
10:24:19 40
10:24:21 41
10:24:25 42
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10:24:41 46
10:24:47 47

MR FURSTENBERG: Person 12, can I just ask you a couple of questions in relation to the making of that statement. These matters occurred some time ago?---Yes.

You've done your best to recall?---I have.

Do you have any issues with your ability to recall and your memory?---It's just been a long, long time ago. I've got [REDACTED] and the only thing I can say is that I'll do the best that I can.

In terms of your [REDACTED], can you just tell the Commissioner a little bit about that?---[REDACTED]

Yes, thank you. If you could just stay there.

COMMISSIONER: Thank you. Yes Ms Tittensor.

<CROSS-EXAMINED BY MS TITTENSOR:

Thanks Commissioner. Person 12, hopefully I won't have you here for too long, I'm going to briefly take you through your statement and ask you a few questions as we go about the details?---Yes.

You have a copy of your statement there with you?---I have.

In paragraph 4 you indicate that in or about 2002 you were charged [REDACTED]?---I was.

[REDACTED]?---Yes.

Would you agree that perhaps you were interviewed and the investigation was taking place throughout 2002 but the charges were laid upon you [REDACTED] on [REDACTED] 2003?---Yes, something like that.

There was some information provided to your lawyer, Mr Furstenberg, yesterday about the identity of some of

10:24:51 1 your lawyer - or the law firm that was representing you
10:24:57 2 through this period. You mentioned that in paragraph 5, do
10:25:03 3 you see that, without mentioning names?---Yes.
10:25:05 4
10:25:06 5 Were you given a bit of paper yesterday that indicated that
10:25:09 6 that law firm should be referred to as Law Firm 1?---No, I
10:25:16 7 think I was told.
10:25:17 8
10:25:20 9 If you need to refer to that law firm, if you could refer
10:25:24 10 to it as Law Firm 1?---Yes.
10:25:26 11
10:25:26 12 If you need to refer to the principal of that law
10:25:32 13 firm?---Lawyer 1.
10:25:32 14
10:25:32 15 Solicitor 1?---Yep.
10:25:34 16
10:25:34 17 At the time of your charging in relation to those matters,
10:25:37 18 that's [REDACTED], you
10:25:41 19 were represented by Law Firm 1?---Yes.
10:25:43 20
10:25:44 21 Is it the case that they straight away briefed Nicola Gobbo
10:25:48 22 as your barrister?---Yes. To the best of my recollection
10:25:52 23 that's how it went.
10:25:53 24
10:25:53 25 Had you had any dealings with her prior to that
10:25:56 26 time?---Honestly, I don't recall. I really don't recall.
10:26:00 27
10:26:01 28 Yes?---What I do recall is I actually requested a barrister
10:26:05 29 by the name of [REDACTED] to act for me in that
10:26:10 30 matter.
10:26:10 31
10:26:10 32 I might come to that because it seems he may well have
10:26:14 33 represented you at some stage through the proceedings in
10:26:16 34 the matter?---Could have, could have.
10:26:18 35
10:26:19 36 All right. You recall having had a number of conferences
10:26:23 37 with Ms Gobbo and her appearing for you in court?---Yes.
10:26:26 38
10:26:27 39 At least in some of the early stages of that matter?---Yes.
10:26:33 40 Madam, she also appeared in my committal for the [REDACTED]
10:26:36 41 [REDACTED].
10:26:36 42
10:26:37 43 Yes, I understand that. We've got some material which
10:26:41 44 indicates that Ms Gobbo prepared what's called the Form 8A
10:26:48 45 prior to the committal in your matter and that's the
10:26:51 46 request to the court essentially for the list of witnesses
10:26:54 47 that's to be called at the committal, so she was involved

10:26:57 1 at least at that stage in your matter?---She actually was
10:27:00 2 asking questions in my committal. I had her along I think
10:27:06 3 with [REDACTED].
10:27:07 4
10:27:07 5 That was in your [REDACTED] committal?---In my committal [REDACTED]
10:27:09 6 [REDACTED], yes.
10:27:10 7
10:27:10 8 I'm concentrating at the moment on the [REDACTED]
10:27:14 9 one?---Okay.
10:27:14 10
10:27:14 11 So concentrating on that. It seems in the early days she's
10:27:18 12 had some involvement in the preparation stages of that
10:27:20 13 committal with you?---Yes.
10:27:21 14
10:27:22 15 And concentrating on that matter, it seems that you've,
10:27:27 16 from what you say in your statement, been involved in a
10:27:30 17 number of conferences with her relating to the preparation
10:27:34 18 of that matter?---M'hmm.
10:27:35 19
10:27:35 20 Would that be true to say?---If that's what I've said, it
10:27:39 21 is.
10:27:39 22
10:27:40 23 It seems as though from the material we have also that
10:27:43 24 Ms Gobbo was representing someone by the name of [REDACTED]
10:27:49 25 [REDACTED] who was also related - - - ?---Yes, he was my
10:27:55 26 co-accused.
10:27:55 27
10:27:56 28 - - - in some way to the [REDACTED] matter?---Yes.
29
10:27:59 30 In what way was he a co-accused? In terms of the factual
10:28:02 31 scenario that was being alleged, how did he fit in?---To
10:28:02 32 the best of my recollection the allegation was he
10:28:08 33 [REDACTED]
10:28:11 34 [REDACTED]
10:28:11 35
10:28:12 36 So the allegation was that there was - - - ?---[REDACTED]
10:28:14 37 [REDACTED]
10:28:14 38
10:28:16 39 - - - [REDACTED]
10:28:22 40 [REDACTED]?---Yes.
10:28:22 41
10:28:23 42 [REDACTED]
10:28:26 43 [REDACTED]
10:28:29 44 [REDACTED]
10:28:33 45 [REDACTED]
10:28:38 46 [REDACTED]
10:28:38 47 [REDACTED]

10:28:39 1 I'm not asking you about what actually happened, I'm asking
10:28:45 2 about what the allegation was, if you can tell us
10:28:45 3 that?--- [REDACTED]
10:28:49 4 [REDACTED]
10:28:52 5
10:28:52 6 This is after [REDACTED] - - -
10:28:54 7 ?---After, yes.
10:28:54 8
10:28:55 9 - - - in some way from [REDACTED]?---Yes. Yes.
10:28:57 10
10:28:57 11 [REDACTED], the allegation
10:29:01 12 is - - - ?---He had nothing to do with the [REDACTED].
10:29:06 13 [REDACTED] had nothing to do with the [REDACTED].
10:29:09 14
10:29:10 15 Ms Gobbo, though, was representing you in relation to your
10:29:14 16 involvement both at [REDACTED]?---Yes.
17
10:29:16 18 And afterwards in relation to the [REDACTED] that
10:29:20 19 occurred?---Yes.
10:29:20 20
10:29:21 21 Involving [REDACTED]?---Yes, because it was basically all
10:29:24 22 brought into the one case, yeah.
10:29:26 23
10:29:31 24 You mentioned [REDACTED] being involved?---I could
10:29:35 25 have swore that he was. Look, I could be wrong but I
10:29:38 26 remember, I do remember asking for [REDACTED].
10:29:44 27
10:29:44 28 We've got some material which seems to indicate that when
10:29:48 29 the committal itself took place later that year in
10:29:53 30 [REDACTED], that you were being represented at that stage by
10:30:00 31 [REDACTED] and that the [REDACTED] were being represented
10:30:03 32 at that stage by [REDACTED]. Do you recall that
10:30:08 33 happening?---Look, when I spoke to my solicitor and my
10:30:13 34 barrister I mentioned the name [REDACTED]. Somewhere
10:30:17 35 I had a vague memory of [REDACTED]. I cannot
10:30:22 36 remember anything further. I also remember there was a
10:30:27 37 [REDACTED] man, right, that was representing the [REDACTED]. I don't
10:30:30 38 remember his name.
10:30:30 39
10:30:31 40 That distinctly fits the description of [REDACTED]?---Well
10:30:34 41 there you go, but as far as names go I don't remember. I
10:30:40 42 don't remember.
10:30:40 43
10:30:41 44 He's got a [REDACTED]?---And [REDACTED]. And
10:30:44 45 [REDACTED], yeah.
10:30:45 46
10:30:49 47 Do you recall Ms Gobbo also was present during the

10:30:52 1 committal proceedings?---Honestly, I don't recall. I
10:30:56 2 really don't recall. I do recall she was there for my
10:31:00 3 sentencing, I recall that.
10:31:01 4
10:31:02 5 Yes?---But I don't recall - look, like I said, I'm trying,
10:31:07 6 honestly I am trying, yeah?
10:31:09 7
10:31:10 8 In paragraph 6 of your statement you're charged with [REDACTED]
10:31:16 9 [REDACTED]?---Yes.
10:31:17 10
10:31:18 11 In [REDACTED]?---Yes.
10:31:19 12
10:31:21 13 That charging of you occurred, or [REDACTED]
10:31:26 14 [REDACTED]
10:31:31 15 [REDACTED]
10:31:31 16 [REDACTED]?---Yes.
10:31:32 17
10:31:33 18 Do you know how long after that you were [REDACTED]
10:31:35 19 [REDACTED]
10:31:40 20 [REDACTED]
10:31:44 21 [REDACTED]
10:31:50 22 [REDACTED]
10:31:54 23 [REDACTED]
10:31:58 24 [REDACTED]
10:32:01 25 [REDACTED]
10:32:03 26 [REDACTED]
10:32:07 27 [REDACTED]
10:32:13 28 [REDACTED]
10:32:15 29 [REDACTED]
10:32:19 30 [REDACTED]
10:32:22 31 [REDACTED]
10:32:26 32 [REDACTED]
10:32:31 33 [REDACTED]
10:32:34 34
10:32:36 35 All right. That happens around - - -?--- [REDACTED]
10:32:43 36 that actually happened. But on the [REDACTED], on the [REDACTED] I was
10:32:45 37 in police custody.
10:32:46 38
10:32:47 39 Right. The information that we have indicates that the
10:32:50 40 committal in relation to these matters started on [REDACTED]
10:32:55 41 [REDACTED], so you've gone into custody on the
10:33:00 42 [REDACTED]?---Which matter, madam?
10:33:01 43
10:33:01 44 Sorry, in relation to the [REDACTED] matter?---Right, yes.
10:33:03 45
10:33:04 46 You've gone into custody in relation to the [REDACTED] matter
10:33:07 47 on the [REDACTED]?---Yep.

10:33:08 1
10:33:08 2 Then the [REDACTED] the committal commences in
10:33:11 3 relation to the [REDACTED]?---Yes.
10:33:12 4
10:33:12 5 So you would have been in custody in effect throughout the
10:33:16 6 period of the - - - ?---Well yeah.
10:33:18 7
10:33:19 8 - - - [REDACTED] matter because you had been on bail up
10:33:23 9 until that time on the [REDACTED] charges; is that
10:33:25 10 right?---Yes.
10:33:25 11
10:33:25 12 The informant for the [REDACTED] matter was a different
10:33:29 13 informant?---Yes.
10:33:30 14
10:33:30 15 Called [REDACTED]?---[REDACTED]
10:33:35 16
10:33:36 17 Is it the case that you straight away had new solicitors
10:33:37 18 acting for you?---Yes, to the best of my recollection there
10:33:40 19 was a conflict with Lawyer 1 because Lawyer 1 was [REDACTED]
10:33:44 20 [REDACTED].
10:33:47 21
10:33:48 22 Okay?---So I had to get new lawyers and that was [REDACTED]
10:33:56 23 [REDACTED]
10:33:57 24
10:33:57 25 From [REDACTED]?---Yes.
10:33:59 26
10:33:59 27 Is it the case that they then also briefed Ms Gobbo to act
10:34:04 28 for you in that matter?---Yes.
10:34:05 29
10:34:06 30 For a time she was the only barrister briefed for you in
10:34:09 31 that matter until it came time for trial and then you had,
10:34:13 32 was there a senior barrister?---Was this for a [REDACTED]?
10:34:16 33
10:34:17 34 Yes?---No. No, that's not correct. Ms Gobbo may have
10:34:20 35 started out but by the time it was committal I had [REDACTED]
10:34:24 36 [REDACTED], or SC, I don't know, and Nicola Gobbo as his
10:34:30 37 junior.
10:34:31 38
10:34:31 39 She was involved in the preparation of the
10:34:34 40 committal - - -?---And she actually - - -
10:34:36 41
10:34:36 42 And she appeared at the committal?---And questioned as
10:34:39 43 well, she cross-examined.
10:34:41 44
10:34:43 45 And prepared for the trial but didn't appear at the
10:34:46 46 trial?---She prepared for the trial. I was told by [REDACTED]
10:34:50 47 [REDACTED] we don't want her in the courtroom for optical

10:34:54 1 reasons, right. It cost me I think \$20,000 for her to do
10:35:00 2 all the background work in the background, right, and we
10:35:04 3 had [REDACTED] as the front runner in the trial.
10:35:11 4
10:35:13 5 I'm just going to take you back to the [REDACTED]
10:35:16 6 committal?---Yes.
10:35:17 7
10:35:17 8 So you were on remand for the [REDACTED] now?---Yes.
10:35:20 9
10:35:20 10 And the committal is taking place?---Yes.
10:35:22 11
10:35:25 12 Questions are being asked on behalf of [REDACTED] by
10:35:29 13 [REDACTED]?---Yes.
10:35:31 14
10:35:31 15 The [REDACTED] man?---Yes.
10:35:32 16
10:35:32 17 And it seems as though at that committal you've got
10:35:39 18 [REDACTED] asking questions on behalf of you?---Yes.
10:35:43 19
10:35:43 20 But it also seems as though Ms Gobbo is present throughout
10:35:45 21 those proceedings?---I don't recall. Honestly I don't
10:35:48 22 recall.
10:35:48 23
10:35:54 24 At some stage after the committal proceedings take
10:35:59 25 place?---Yes.
10:36:00 26
10:36:00 27 You become concerned and you want to - you're pretty
10:36:06 28 desperate to get out on bail in relation to the [REDACTED]
10:36:09 29 matter?---Yes.
10:36:10 30
10:36:10 31 Do you know how long after you make - after the committal
10:36:15 32 that you start indicating a willingness to assist police in
10:36:20 33 relation to the [REDACTED] charges in order to help yourself
10:36:25 34 achieve bail on the [REDACTED] charge?---Honestly and truly I
10:36:29 35 couldn't tell you. All as I know, all as I know at the
10:36:33 36 time, what I can remember clearly, is [REDACTED]
10:36:36 37 [REDACTED]
10:36:42 38 [REDACTED].
10:36:42 39
10:36:43 40 There's some indications of Ms Gobbo visiting you in
10:36:47 41 custody a number of times in [REDACTED]?---Yeah, that
10:36:54 42 would probably be right.
10:36:54 43
10:36:55 44 This is some time after the committal proceedings and that
10:36:57 45 she's appeared for you at a committal mention in relation
10:37:00 46 to the [REDACTED] matter in [REDACTED] 2004. Were you
10:37:06 47 discussing with her your need to get out on bail during

10:37:12 1 that period of time?---Honestly, madam, if I was to say yes
10:37:15 2 or I was to say no I would be lying to the Commission. I
10:37:21 3 don't recall. But it would be fair to assume, it would be
10:37:24 4 fair to assume that we would have been talking about
10:37:27 5 something like that. I mean, look, it's not as if she was
10:37:31 6 in love with me or I was in love with her and we just
10:37:40 7 wanted to catch up on a visit. You know, there was nothing
10:37:41 8 like that, so there would have to have been something
10:37:43 9 behind the visit to do with the cases, you know.

10:37:45 10
10:37:45 11
10:37:48 12
10:37:52 13
10:37:56 14
10:38:00 15
10:38:04 16
10:38:11 17

10:38:11 18
10:38:12 19 I'm not asking for a specific recollection, I'm just saying
10:38:14 20 in terms of dealing with lawyers it would make sense that
10:38:17 21 you were having those discussions with a lawyer?---It would
10:38:20 22 make sense, of course it would make sense, but I can't say
10:38:22 23 that is what had happened. I can't say that.

10:38:24 24
10:38:26 25
10:38:31 26
10:38:37 27
10:38:39 28 ?---Again, again, I don't recall.

10:38:43 29
10:38:43 30 Do you recall if it was the day before or weeks before or
10:38:46 31 months before?---Honestly, madam, I couldn't tell you. All
10:38:50 32 as I know is at the time I was [REDACTED]
10:38:55 33 [REDACTED] because they believed that it was [REDACTED], right. Ask
10:38:59 34 me any question about gaol I can answer you because it was
10:39:03 35 like it happened yesterday, you know, but the little things
10:39:06 36 in between with solicitors or barristers or conversations,
10:39:08 37 to me it was insignificant, you know what I mean?

10:39:14 38
10:39:16 39 I'm going to probably ask you a number of questions you
10:39:19 40 don't recall the answer to and that's fair enough, it's a
10:39:21 41 long time ago. We understand that the plea hearing for the
10:39:25 42 [REDACTED] charges?---M'hmm.

10:39:27 43
10:39:27 44 Which Ms Gobbo appeared for you on?---Yes.

10:39:30 45
10:39:30 46 Took place on [REDACTED] 2004?---If that's the date, if
10:39:34 47 that's the date you've got.

10:39:35 1
10:39:36 2 You were sentenced a week later?---If that's the date
10:39:38 3 you've got, I can't disagree with it because I don't know.
10:39:42 4
10:39:42 5 For your own information we understand that that's the
10:39:45 6 date?---Okay.
10:39:46 7
10:39:46 8 Can you say when in relation to that time that you signed
10:39:52 9 the statements in relation to the [REDACTED] matter?---It
10:39:57 10 wasn't - to the best of my recollection it was at least - I
10:40:03 11 mean it was a while. It wasn't days or it wasn't a matter
10:40:07 12 of a week or two I don't think, because, look, I remember
10:40:10 13 [REDACTED] coming in a number of times in [REDACTED] and then
10:40:15 14 even [REDACTED] came once and I actually refused to see
10:40:19 15 him. So it was - I think to the best of my recollection it
10:40:25 16 was a time span. There was a bit of a time span.
10:40:29 17
10:40:29 18 Yes. When you say that are you meaning weeks or months or
10:40:33 19 are you - - - ?---No, hang on, look, I'm skipping something
10:40:37 20 here. [REDACTED] came after I refused. Sorry, this is
10:40:41 21 what I mean. It's all just - look, to answer you honestly
10:40:47 22 I don't recall whether it was days, whether it was weeks.
10:40:50 23
10:40:51 24 That's all right. When [REDACTED] was coming did Ms Gobbo
10:40:56 25 know that he was coming to see you for that purpose?---I
10:41:05 26 don't know. Look, if my memory serves me right I'm pretty
10:41:10 27 sure I was talking to [REDACTED] a lot about that. I'm
10:41:17 28 pretty sure I was talking to [REDACTED]. Because we spoke a
10:41:20 29 number of times, me and [REDACTED]. Look, I do recall that.
10:41:23 30
10:41:25 31 If there's a note from another ESD detective called Peter
10:41:32 32 De Santo?---Yes.
10:41:33 33
10:41:33 34 Do you know Mr De Santo?---No, I've heard his name.
10:41:36 35
10:41:37 36 That Ms Gobbo told him on [REDACTED], so this is [REDACTED]
10:41:46 37 [REDACTED] before you entered your plea of guilty, that
10:41:49 38 you'd in effect rolled, would that be about right?---Could
10:41:56 39 be. Could be. But nothing out of De Santo's mouth you
10:42:00 40 could believe anyway because I mean he shouldn't be in a
10:42:03 41 position where he is now either.
10:42:08 42
10:42:10 43 Do you know anything of Ms Gobbo's dealings with
10:42:13 44 Mr De Santo?---I don't, I don't. The only thing I know
10:42:20 45 about De Santo is Glen Saunders was rooting his ex Mrs and
10:42:24 46 he was telling Glen Saunders everything about the
10:42:27 47 operation. That's all I know about De Santo.

10:42:29 1
10:42:31 2 Did you have any idea that Ms Gobbo was having dealings
10:42:38 3 with De Santo during the period that you were being
10:42:41 4 represented by her?---Let me tell you something, if I had
10:42:44 5 any idea about Nicola Gobbo having dealings with police or
10:42:49 6 inappropriate dealings with police I'd have sacked her
10:42:52 7 on-the-spot. She's given the whole brand new meaning to
10:42:57 8 barristers dicking police.
10:43:04 9
10:43:06 10 When you came to - when the plea hearing came to happen on
10:43:12 11 [REDACTED] you got into the witness box on that occasion and
10:43:16 12 you gave an undertaking?---Yes.
10:43:19 13
10:43:20 14 That you would give the evidence?---I remember that, yes.
10:43:23 15
10:43:28 16 Accordingly, when you came to be sentenced you got
10:43:31 17 presumably [REDACTED]
10:43:35 18 [REDACTED]?---Yeah.
10:43:36 19
10:43:36 20 In fact you got a [REDACTED] sentence in relation to your
10:43:39 21 part in that event; is that right?---Yes.
10:43:41 22
10:43:42 23 No doubt you would had some discussions in preparation for
10:43:46 24 your plea hearing about all of those things with
10:43:51 25 Ms Gobbo?---I'm not sure whether it was Ms Gobbo or [REDACTED]
10:43:56 26 [REDACTED] because [REDACTED] came and saw me a number of times
10:44:03 27 as well. Like I said, I can't give you 100 per cent
10:44:07 28 answers because truth is I really don't recall. I really
10:44:10 29 don't recall.
10:44:11 30
10:44:19 31 It seems as though some time after your sentencing - [REDACTED]
10:44:24 32 [REDACTED]
10:44:27 33 [REDACTED] you're brought in to in effect swear
10:44:36 34 up to your statement?---Yes.
10:44:38 35
10:44:38 36 And be cross-examined?---Yep, I remember that but not the
10:44:40 37 date. I don't remember the date, I remember what happened
10:44:42 38 there.
10:44:43 39
10:44:43 40 Was that in the [REDACTED] Court?---[REDACTED] Court,
10:44:45 41 yes.
10:44:45 42
10:44:46 43 In effect had the committal proceedings not finally
10:44:50 44 completed in relation to the [REDACTED] from the
10:44:55 45 previous year or is that your understanding?---I don't
10:45:01 46 understand what you - - -
10:45:02 47

10:45:03 1 Ordinarily after a committal proceeding is finalised - - -
10:45:07 2 ?---They added it I think or something, is that what you're
10:45:11 3 saying?
10:45:11 4
10:45:11 5 Yes?---Yeah. Well they did. They brought me before the
10:45:14 6 court to adopt my statements and to give evidence about my
10:45:18 7 statements.
10:45:18 8
10:45:19 9 So that you could be cross-examined?---Yes.
10:45:21 10
10:45:21 11 In effect at a committal prior to any trial
10:45:24 12 occurring?---Yes.
10:45:24 13
10:45:26 14 On the day or in the time before that is it the case that
10:45:31 15 you had some disagreement with [REDACTED]?---Yes. He was
10:45:37 16 stringing me along. I brought it to the boil. He came in,
10:45:41 17 he said that "you're a dangerous criminal", right, and
10:45:45 18 "you're not getting bail". I said sweet. I said see you
10:45:47 19 later. I said, "Don't expect me at court". He goes,
10:45:50 20 "You'll be there". I said, "All right, we'll see" and that
10:45:52 21 was it. I remember that, I do. I remember that.
10:45:55 22
10:45:57 23 You were charged on that day with contempt?---The day of
10:46:00 24 court?
10:46:00 25
10:46:01 26 The day of court?---Yes, I was.
10:46:02 27
10:46:02 28 And Ms Gobbo appeared for you on that day?---Yes.
10:46:05 29
10:46:05 30 Had she been present in the committal room?---She was. She
10:46:11 31 was.
10:46:11 32
10:46:12 33 For the purpose of seeing you give your evidence or seeing
10:46:16 34 how that panned out?---Yes.
10:46:17 35
10:46:17 36 Had she known at that stage that you were going to refuse
10:46:21 37 to swear up to your statement?---Yes, I'm pretty sure she
10:46:24 38 did. I'm pretty sure she did. I think I would have had to
10:46:29 39 have instructed her that that's the stand I was going to
10:46:31 40 take.
10:46:31 41
10:46:32 42 There might be some court book note of hers to indicate
10:46:35 43 that she'd some prior discussions with [REDACTED] about some
10:46:39 44 concerns in relation to bail. Would you agree that you'd
10:46:42 45 had some discussions with her about your bail
10:46:45 46 concerns?---All as I remember about that day is Nicola
10:46:48 47 Gobbo came up to me after the proceedings, right, she come

10:46:51 1 and saw me, and she said to me that [REDACTED] said to her that
10:46:57 2 they need me, and that's what I remember about that day and
10:47:01 3 that was it. [REDACTED] had said something to Nicola or
10:47:06 4 something and she came back and conveyed the message to me.
10:47:11 5
10:47:11 6 That was on the day that you'd been charged?---Yes, with
10:47:14 7 the contempt.
10:47:15 8
10:47:15 9 Had you already been charged with contempt when she said
10:47:18 10 that to you?---I had been, yes.
10:47:19 11
10:47:19 12 Was it being essentially held out to you that if you change
10:47:23 13 your mind that that charge might go away?---Look, I don't
10:47:26 14 know. The only thing - I think she said that "[REDACTED] said
10:47:29 15 that they needed you". Well, you know, I wasn't
10:47:34 16 interested.
10:47:34 17
10:47:38 18 The court records indicate that that contempt charge - - -
10:47:43 19 ?---M'hmm.
10:47:45 20
10:47:45 21 - - - that was laid on that day was initially listed as a
10:47:48 22 summary contest, that you were going to contest the
10:47:51 23 charge?---Yes.
10:47:51 24
10:47:51 25 Were you aware whether Ms Gobbo had received advice from an
10:47:55 26 appellate lawyer that you had essentially a complete
10:48:00 27 defence to that charge?---I can't recall, honestly I can't
10:48:03 28 recall.
10:48:03 29
10:48:05 30 Do you remember a [REDACTED]?---Yes. [REDACTED],
10:48:11 31 yes.
10:48:11 32
10:48:12 33 Do you remember getting advice at all in relation to
10:48:14 34 whether there was a defence in relation to a contempt
10:48:17 35 charge?---Look, the only thing I remember about [REDACTED]
10:48:19 36 [REDACTED] is he represented me on my appeal for the [REDACTED]
10:48:24 37 and I paid him for my brother's appeal. That's all I
10:48:27 38 remember about [REDACTED], and that he's a good
10:48:30 39 barrister, you know.
10:48:30 40
10:48:31 41 Ultimately in relation to the contempt charge it appears as
10:48:36 42 though you pleaded guilty?---Yep. I think I got three
10:48:40 43 months for that I think.
10:48:41 44
10:48:42 45 Was that something that was on advice or was that something
10:48:45 46 that you just wanted to get it over with?---I really don't
10:48:48 47 know.

10:48:51 1
10:48:52 2 Can you recall whether you were told whether you had a
10:48:54 3 defence or not to that charge?---I really - to tell you the
10:49:02 4 truth I really - I can't remember. As far as - look, I
10:49:10 5 understand a little bit, you know. I mean basically in my
10:49:12 6 own mind I was guilty of contempt of court, you know what I
10:49:16 7 mean? I might be stupid, but I'm not totally stupid, you
10:49:19 8 know what I mean? Like, from my actions that day I knew I
10:49:25 9 was guilty, you know, so whether I was going to fight it or
10:49:31 10 not, I cannot remember if it was upon advice. I can't
10:49:35 11 remember.

10:49:36 12
10:49:36 13 That contempt charge was a separate matter to you having to
10:49:41 14 go back before the court essentially to be resentenced on
10:49:44 15 the [REDACTED] charges. That was something that was
10:49:47 16 separate, you understood that?---Yeah. Yes, it was but
10:49:52 17 look, [REDACTED] was shafting me at every corner because I'd get
10:49:57 18 sentenced for one thing and then another thing would
10:50:00 19 appear. He organised a [REDACTED] as well where I
10:50:03 20 refused to answer questions in the [REDACTED],
10:50:06 21 you know.

10:50:07 22
10:50:08 23 MR FURSTENBERG: I don't know if there's any orders about
10:50:10 24 that appearance and perhaps that shouldn't be explored here
10:50:16 25 at this point.

10:50:18 26
10:50:18 27 COMMISSIONER: Yes.

10:50:21 28
10:50:21 29 MS TITTENSOR: I'm not proposing to ask any questions about
10:50:24 30 it, Commissioner.

10:50:25 31
10:50:25 32 COMMISSIONER: Thank you.

10:50:26 33
10:50:29 34 MS TITTENSOR: You say in your statement that "at no stage
10:50:34 35 did I know or suspect that she", being Ms Gobbo, "had any
10:50:37 36 dealings with police beyond those that a barrister would
10:50:40 37 ordinarily be expected to have"?---That is true.

10:50:43 38
10:50:44 39 That's true?---Had I had any idea I would have ran a mile.

10:50:47 40
10:50:49 41 Just reminding you that you were originally charged in
10:50:53 42 relation to this matter in [REDACTED] 2003 and you say
10:50:55 43 Ms Gobbo effectively came to represent you shortly after
10:50:59 44 that time. Were you aware that - - - ?---No, but I think
10:51:03 45 she represented me before that time, before the [REDACTED] I
10:51:06 46 think she's represented me.

10:51:07 47

10:51:08 1 I'm talking about the [REDACTED] matter?---Yeah.
10:51:09 2
10:51:10 3 You were originally charged with the [REDACTED] matter back
10:51:12 4 in February 2003?---Yep.
10:51:13 5
10:51:13 6 And shortly after that it appears as though she's acting
10:51:17 7 for you?---M'hmm.
10:51:20 8
10:51:21 9 [REDACTED]
10:51:29 10 [REDACTED]
10:51:32 11 [REDACTED] ?---Not at all. Not at all. Look, I
10:51:41 12 sit here, I'm still in shock about what's going on with
10:51:44 13 Ms Gobbo, you know. Wow. I mean - - -
10:51:50 14
10:51:50 15 Were you aware whether or not she'd had professional
10:51:55 16 dealings with any of the other police in the past, that is
10:51:58 17 that - - -?---Nothing.
10:51:59 18
10:52:00 19 - - - they had been witnesses or informants in matters in
10:52:03 20 which she'd been - - - ?---No, but as a barrister and as a
10:52:08 21 policeman I'm sure any solicitor or barrister would have
10:52:11 22 had dealings with police in a courtroom. Dealings
10:52:14 23 inappropriately? No, I had no idea. Absolutely no idea.
10:52:19 24
10:52:21 25 Were you aware that during the course of her representing
10:52:24 26 you, that is 2003, 2004, [REDACTED]
10:52:31 27 [REDACTED]
10:52:37 28 [REDACTED]
10:52:40 29 [REDACTED] ?---Absolutely not. I would have asked her when
10:52:43 30 my turn was, you know what I mean? I actually had no idea.
10:52:51 31
10:52:52 32 Would you have been upset to have known that?---Upset? I
10:52:56 33 would sacked her on-the-spot. Are you kidding or what?
10:52:59 34 [REDACTED] -
10:53:03 35 how does that look? I mean, you know, what was she doing,
10:53:08 36 giving them everything that I was saying? Blow by blow, I
10:53:13 37 suppose, you know, I don't know.
10:53:15 38
10:53:18 39 Safe to say you weren't aware that she was on the - during
10:53:22 40 the period of the committal on the [REDACTED] charges in
10:53:26 41 [REDACTED] 2003, that on most nights she was seeing
10:53:30 42 [REDACTED] ?---Like I said to you, had I had any idea she
10:53:37 43 would have been sacked on-the-spot and I would have sacked
10:53:41 44 Lawyer 1 for putting her on to me.
10:53:44 45
10:53:47 46 I think you've probably already answered this but clearly
10:53:50 47 if you had have known those matters you would have been

10:53:53 1 very concerned about your instructions remaining
10:53:56 2 privileged?---Concerned? Concern's an understatement. You
10:54:00 3 know I mean, look, you she knew everything. She knew where
10:54:04 4 my wife and kids lived, she knew everything. I mean I
10:54:07 5 don't even know if it was the police that were putting the
10:54:10 6 [REDACTED] that I was talking about yesterday.
10:54:12 7 It could have been because it was all around that time. It
10:54:15 8 was all around that time that all these funny things were
10:54:18 9 happening and they were smart enough to get through the
10:54:21 10 [REDACTED]. I mean basically from the
10:54:25 11 day I got arrested my wife had spent about [REDACTED] on
10:54:29 12 security equipment for the house, you know what I mean?
10:54:32 13 [REDACTED]
10:54:35 14 [REDACTED] They managed to get through all
10:54:41 15 that to put these [REDACTED]
10:54:44 16 [REDACTED]
10:54:47 17 [REDACTED]. I mean, you know, strange shit was happening. You
10:54:50 18 know. And just by getting through that, well, you know
10:54:54 19 it's no goose, you know what I mean? They're getting
10:54:57 20 through every bit of security that we had. And it was a 10
10:55:01 21 acre property and the [REDACTED] was [REDACTED], the
10:55:06 22 [REDACTED]. And they were getting through it.

10:55:08 23
10:55:09 24 COMMISSIONER: Did Ms Gobbo know your security details?---I
10:55:13 25 think to the best of my recollection she may have. She may
10:55:16 26 have. She may have, you know. Because, like, she knew
10:55:22 27 that there was threats. I'm sure I told her, "Yes, look,
10:55:26 28 there's threats, this is what's going on", I'm pretty sure.
10:55:30 29 You know. I can't tell you it was her. I can't say that
10:55:32 30 it was her, I don't know. All is I can tell you, if I had
10:55:36 31 any idea that she was in an intimate relationship with a
10:55:42 32 cop, [REDACTED]
10:55:45 33 [REDACTED], I mean, Christ Almighty, you know, like, really?

10:55:53 34
10:56:00 35 MS TITTENSOR: Save to say that you now have great cause
10:56:04 36 for concern that your legal interests weren't being
10:56:09 37 represented appropriately?---Look, anyone that could do the
10:56:18 38 maths would say, "Okay, she's in bed with him, [REDACTED]
10:56:22 39 [REDACTED], well it doesn't take
10:56:27 40 Einstein to work out what may have been going on. I don't
10:56:30 41 know. All is I know at the end of the day is I got gaol
10:56:34 42 for that, [REDACTED]
10:56:38 43 [REDACTED], I don't know, and
10:56:41 44 she was involved in both of them. I don't know what's gone
10:56:44 45 on.

10:56:49 46
10:56:52 47 I've finished asking you questions in relation to that

10:56:55 1 period of time, I've just got a couple more questions to
10:56:58 2 ask you?---Yep.
10:56:59 3
10:57:02 4 Ms Gobbo appeared for you at the committal of [REDACTED]
10:57:06 5 charges?---Yes.
10:57:07 6
10:57:07 7 She didn't appear at trial?---Not at the trial, she was
10:57:11 8 paid to do all the background work from her office - - -
10:57:15 9
10:57:15 10 And there was a - - - ?--- - - - because [REDACTED] did not
10:57:20 11 want too many people in the courtroom on my side in case
10:57:24 12 the prosecution would say, "Have a look at this, look at
10:57:28 13 us", you know what I mean. He's got the money, you know
10:57:31 14 what I mean. My whole trial was about [REDACTED]
10:57:35 15 [REDACTED], all right, and [REDACTED] did not want to
10:57:40 16 show too many people on my side of the defence to say, [REDACTED]
10:57:47 17 [REDACTED].
10:57:51 18
10:57:51 19 During the period of preparation for that trial she came to
10:57:54 20 see you in custody, the records show she came to see you in
10:57:56 21 custody a few times?---To the best of my recollection,
10:57:59 22 yeah. Yeah. But also [REDACTED] came too and [REDACTED]
10:58:03 23 as well, they've come as well. I remember that.
10:58:06 24
10:58:06 25 The records indicate that she again visited you in custody
10:58:11 26 some years later on 13 February 2009?---Yes.
10:58:17 27
10:58:19 28 Can you shed any light on what you were discussing on that
10:58:22 29 occasion?---I know I had no more cases on that time, I know
10:58:52 30 there was nothing. I don't think there was anything left.
10:58:55 31 I think my appeal was finished with, everything. To the
10:58:58 32 best of my recollection I think she'd visited [REDACTED]
10:59:03 33 in Acacia and she came and saw me and it was a box visit
10:59:10 34 actually, it was a box visit, I remember that.
10:59:13 35
10:59:13 36 It seems as though you've got a pretty good recollection
10:59:16 37 about this matter, if I can perhaps assist. She comes to
10:59:19 38 see you at about 2 o'clock in the afternoon?---It was, it
10:59:22 39 was an afternoon visit.
10:59:23 40
10:59:23 41 She had seen [REDACTED] at about twenty to 11?---I remember
10:59:28 42 her saying she saw [REDACTED].
10:59:30 43
10:59:31 44 And then she'd seen [REDACTED] about 1.30?---Yep.
45
10:59:34 46 And then after that comes to see you. Does that assist
10:59:37 47 your recollection about what you might have discussed on

10:59:40 1 that day?---I think she asked - there was a friend of
10:59:47 2 ██████████ in the unit that I was in, I think I remember
10:59:51 3 that, and she asked me if ██████████ had asked her to ask me if I
10:59:57 4 could look out for him. I think it was ██████████, I
11:00:00 5 think. I think his name was ██████████.

11:00:06 6
11:00:06 7 Were you having discussions with her about ██████████ or
11:00:09 8 anything like that?---No, just that he said hello and asked
11:00:13 9 if I could look out for this ██████████. I think he was in
11:00:18 10 the unit or he was coming to the unit, or he'd been
11:00:21 11 classified to the come to the unit. And she was panicking
11:00:25 12 about something, I can't remember. I can't remember what
11:00:31 13 she was - I think it was about a cop, that's all I
11:00:38 14 remember. I can't even remember his name to tell you the
11:00:40 15 truth. She was really panicking.

11:00:43 16
11:00:43 17 Do you remember any details about where the police member
11:00:46 18 might have been from?---No, no. When I say panicking, she
11:00:54 19 was scared.

11:00:54 20
11:00:55 21 Well I'm going to finish the questioning there but if you
11:01:00 22 have any further memory about that matter do you undertake
11:01:03 23 to notify the Commissioner about it?---Of course.

11:01:07 24
11:01:08 25 COMMISSIONER: You called it a box visit, what's a box
11:01:10 26 visit?---A cubicle visit, madam. I actually thought they
11:01:18 27 were all recorded.

11:01:23 28
11:01:25 29 MS TITTENSOR: Why do you have the understanding that a box
11:01:28 30 visit with a lawyer might be recorded?---Well, when you're
11:01:32 31 in a ██████████ prison, when you're in a ██████████
11:01:36 32 prison, right, everything's recorded. I mean everything.
11:01:41 33 Look, they know the ins and outs of a monkey's bum, you
11:01:45 34 know, and especially ██████████ prison, you know what I mean?
11:01:50 35 And the people that she was seeing - I took it for granted
11:01:54 36 that it's recorded.

11:01:57 37
11:01:58 38 Thank you for your evidence to the Commission.
11:02:01 39 Commissioner, I might just say that the statement in
11:02:04 40 relation to Person 12 apparently needs some PII redactions
11:02:09 41 so if for the time being it could be marked confidential
11:02:13 42 pending the provision of the redacted version.

11:02:15 43
11:02:15 44 COMMISSIONER: We'll make the unredacted statement Exhibit
11:02:20 45 A and then in due course a redacted statement will be
11:02:23 46 provided after consultation with the parties.

11:02:27 47

11:02:27 1 MS TITTENSOR: Yes, it perhaps needs more than the ordinary
11:02:30 2 PII redactions because of the orders that were made
11:02:33 3 yesterday in relation to this witness.
11:02:34 4
11:02:34 5 COMMISSIONER: Yes, of course. There mightn't be much left
11:02:37 6 of it by the time that's happened but the redacted
11:02:40 7 statement will be 147B when it's provided to the Commission
11:02:44 8 within the next few days.
11:02:45 9
11:02:46 10 #EXHIBIT RC147B - Redacted statement of Person 12.
11:02:49 11
11:02:49 12 COMMISSIONER: You'll have some say in that,
11:02:52 13 Mr Furstenberg. Yes Mr Nathwani.
14
15 <CROSS-EXAMINED BY MR NATHWANI:
16
11:02:56 17 Person 12, I'm one of the counsel for Ms Gobbo,
11:02:58 18 okay?---Yep.
11:02:58 19
11:03:00 20 You just were asked questions about Ms Gobbo being, I
11:03:03 21 think you said scared, my words are scared when she came to
11:03:07 22 see you on an occasion?---Yes.
11:03:09 23
11:03:10 24 And was talking about a police officer?---Yeah.
25
26 Can I give you a couple of names and see if they may be the
27 police officers she was talking about?---Yep.
28
11:03:25 29 Paul Dale?---Keep going.
30
11:03:26 31 Wayne Strawhorn?---I actually have spoken to that [REDACTED]
11:03:29 32 [REDACTED] and I would remember that
11:03:30 33 name. It's not that name.
11:03:31 34
11:03:32 35 Miechel?---No.
11:03:34 36
11:03:34 37 Okay. Can we go back to the beginning of - can we go back
11:03:46 38 to when you were first charged with, I think it was from
11:03:49 39 documents I can see, [REDACTED]
11:03:52 40 [REDACTED]?---Yes.
11:03:54 41
11:03:54 42 That was [REDACTED] 2003?---M'hmm.
11:03:57 43
11:03:59 44 Obviously at that time Ms Gobbo was acting for you. It's
11:04:03 45 right, isn't it, that the informant, [REDACTED], was
11:04:08 46 regularly trying to get you to roll on your
11:04:11 47 co-accused?---Yes.

11:04:11 1
11:04:12 2 From pretty much the beginning, do you agree with
11:04:14 3 that?---Look, from the moment [REDACTED] raided my house, I
11:04:20 4 think his exact words were, "We don't want you, we don't
11:04:25 5 want you, we're not interested in you", and I basically
11:04:28 6 told him to get f'ed then and there, I refused to make a
11:04:33 7 statement and everything.
8
11:04:34 9 And that's right because your attitude then for a long
11:04:36 10 period was - - - ?---It always was my attitude.
11:04:39 11
11:04:40 12 No, I understand. I just want to go through the time,
11:04:42 13 because there was a time that changed to a degree but for
11:04:45 14 different reasons. But your general attitude is, "I'm not
11:04:47 15 going to assist the police and I'll just run it as a
11:04:51 16 trial", do you agree with that?---Look, at the end of the
11:04:52 17 day I can say this: even when I was making the statements
11:04:54 18 they were never, ever going to be carried through in court.
11:04:56 19
11:04:57 20 Understood?---From day one, from the outset. Whilst I was
11:05:00 21 screwing him, he was really screwing me. That was it, you
11:05:04 22 know. That was it.
11:05:05 23
11:05:05 24 I understand. I think the Commissioner understands your
11:05:08 25 general position?---Do you understand that?
11:05:11 26
11:05:11 27 Of course I do?---Well that's the main thing.
11:05:12 28
11:05:13 29 I'm not sure about that. Going forward though, you made
11:05:19 30 clear that you wanted to fight the charges, [REDACTED]
11:05:23 31 [REDACTED]?---I wasn't
11:05:26 32 allowed to plead guilty.
11:05:27 33
11:05:28 34 No, I understand. But can we go through, just if you help
11:05:31 35 me. One of the documents that we saw, I think it's in
11:05:35 36 [REDACTED], there's a document that Ms Gobbo produced, a
11:05:41 37 subpoena, where she was asking for lots of material to try
11:05:43 38 and help you in fighting your case, do you recall that?---I
11:05:46 39 don't know. Look, I don't know.
11:05:48 40
11:05:48 41 Do you recall - - -?---All is I know - look, let me cut you
11:05:52 42 short for a moment. All is I know is this: whenever I was
11:05:55 43 asked to pay money, I paid money. That is it. All the
11:05:59 44 legal mumble jumble, I was out of it. It was in their
11:06:03 45 hands. Understand me? That was it.
11:06:06 46
11:06:06 47 I won't ask you about the mumbo-jumbo then?---No, but - you

1 understand what I'm trying to say?
2
11:06:10 3 I won't - I'll try and refresh your memory with the
11:06:13 4 timeline?---But you can't refresh my memory because I had
11:06:16 5 nothing to do with it.
11:06:17 6
11:06:17 7 We'll see. I'm going to ask you about some of the
11:06:22 8 conferences you had with her as well.
11:06:24 9
11:06:24 10 COMMISSIONER: Just let Mr Nathwani ask the question, it
11:06:27 11 will be quicker if you let him ask the question?---No
11:06:28 12 worries, madam, yep.
13
11:06:30 14 And then do your best to answer it, please?---Yep.
11:06:30 15
11:06:30 16 MR NATHWANI: I'm sorry, I'll try not to frustrate
11:06:34 17 you?---No, it's all right. Look, I'm not frustrated, I'm
11:06:35 18 just trying to - - -
11:06:35 19
11:06:36 20 [REDACTED] was your committal hearing?---Yep.
21
11:06:36 22 [REDACTED]
11:06:39 23 [REDACTED]
11:06:42 24 [REDACTED]
11:06:45 25
11:06:46 26 Do you agree - let's talk about what was going on in your
11:06:48 27 life at that stage. [REDACTED]
11:06:52 28 [REDACTED], agree?---Yes, yes.
11:06:53 29
11:06:53 30 You wanted to be out on bail to [REDACTED],
11:06:56 31 understandably?---Yes.
11:06:57 32
11:06:57 33 As we know, [REDACTED]
11:07:00 34 [REDACTED]
11:07:03 35
11:07:04 36 [REDACTED]
11:07:07 37 [REDACTED]
11:07:10 38 [REDACTED]
11:07:13 39
11:07:13 40 I'm not saying that, I'm just saying with what's going on -
11:07:14 41 I'm not necessarily interested in [REDACTED]?---Yep,
11:07:16 42 okay.
11:07:16 43
11:07:17 44 But as far as you were concerned around the time of your
11:07:19 45 committal hearing your main interest was getting bail, do
11:07:23 46 you agree with that?---Yes.
11:07:24 47

11:07:24 1 More so than anything else?---Yep.
11:07:27 2
11:07:27 3 And it was around that time you began the conversation with
11:07:30 4 [REDACTED] about, in effect, giving evidence against your
11:07:36 5 co-accused because he'd been hassling you, on the basis you
11:07:39 6 were released on bail?---Yes.
11:07:42 7
11:07:43 8 And in fact what happens is the committal goes through for
11:07:49 9 several days but then it's adjourned and the notes I have
11:07:52 10 it looks like at first it was adjourned to [REDACTED] 2004 and
11:07:58 11 the reason for that was because you had provided some
11:08:01 12 witness statements, do you agree with that?---If you say
11:08:03 13 so.
11:08:03 14
11:08:04 15 Now let me give you some dates. The police interview it
11:08:07 16 appears from notes taken at your plea hearing when Ms Gobbo
11:08:11 17 represented you that you adopted [REDACTED] statements, okay?---I
11:08:14 18 never adopted none.
11:08:15 19
11:08:16 20 No, no, at your plea. In other words, when you stood
11:08:19 21 before a court, you got into a witness box and said, "I
11:08:22 22 promise to give evidence in line with the following
11:08:24 23 statements and on that basis I get a reduction in
11:08:28 24 sentence", right?---Yeah.
11:08:29 25
11:08:30 26 The dates of those statements are [REDACTED] you appear
11:08:34 27 to have been interviewed by the police, probably by [REDACTED]
11:08:38 28 is my guess, 2003?---There was always someone with him.
11:08:41 29
11:08:42 30 As a result of that interview, [REDACTED], the
11:08:45 31 statement is taken and signed by you on [REDACTED].
11:08:51 32 There's also another interview with police on that day,
11:08:55 33 [REDACTED]. You then provide a further statement on
11:08:58 34 [REDACTED].
11:09:05 35 [REDACTED]. Does that help,
11:09:10 36 roughly [REDACTED] statements, two police interviews?---There was
11:09:14 37 more than two police interviews, I'm sure there was.
11:09:17 38
11:09:17 39 Okay. It may be that you were interviewed for several
11:09:20 40 occasions on the same day?---No, no, no, no, not on the
11:09:25 41 same day.
11:09:25 42
11:09:25 43 This may also help. On [REDACTED] there was a hearing
11:09:31 44 for a suppression order which the court's in fact referred
11:09:37 45 to, a suppression order was made protecting your identity,
11:09:40 46 pictures and that, because by then you had already agreed
11:09:44 47 to assist against your co-accused, do you agree with

11:09:47 1 that?---Look, if you say that is there I've got to agree
11:09:50 2 because I don't know. I don't know. You're telling me. I
11:09:54 3 don't know.
11:09:54 4
11:09:56 5 On [REDACTED] 2004 there's a note in one of Ms Gobbo's
11:10:02 6 books that she saw you and in effect was telling you that
11:10:08 7 [REDACTED] had suggested that they'd be pushing, that's the
11:10:12 8 police, for a [REDACTED] sentence for you, do you
11:10:15 9 remember that?---I can't recall. I can't recall. Sorry,
11:10:23 10 look, I recall something actually.
11:10:25 11
11:10:25 12 That's okay?---The policeman that she was scared about was
11:10:27 13 in custody. I don't remember the name but he was in
11:10:31 14 custody.
11:10:33 15
11:10:33 16 And that was - - - ?---The one that she was scared of,
11:10:38 17 petrified of on that visit. He was a police officer who
11:10:42 18 was in custody.
11:10:43 19
11:10:43 20 When was that visit, can you remember?---[REDACTED]. That was the
11:10:45 21 last visit that I was talking, that youse were talking
11:10:49 22 about, yep, I remember that now.
11:10:51 23
11:10:52 24 I think we will be able to work out who that is. I'll say
11:10:55 25 Paul Dale?---I don't know. All is I know he was in custody
11:10:58 26 and it was I think in the Melbourne Remand Centre. He was
11:11:04 27 in the slot, in solitary I think he was. That's what I
11:11:07 28 remember. I don't remember his name. That's what I
11:11:09 29 remember.
11:11:13 30
11:11:14 31 Just going back to the time - thank you for that, that's
11:11:16 32 helpful. Ultimately you're sentenced on - your mitigation,
11:11:23 33 your plea hearing occurs [REDACTED]. We know you're
11:11:27 34 sentenced a week later. And you get a [REDACTED] sentence,
11:11:30 35 don't you, [REDACTED]?---Yep.
11:11:33 36
11:11:33 37 You don't get bail?---No.
11:11:34 38
11:11:35 39 So [REDACTED], as far as you're concerned, hasn't kept his end
11:11:38 40 of the bargain?---Well yeah.
11:11:41 41
11:11:41 42 And so there's then a change from you, do you agree, about
11:11:47 43 assisting the authorities, in other words giving evidence
11:11:50 44 against your co-accused in the [REDACTED] matter?---Look, at the
11:11:53 45 end of the day statements may have been made. I was never
11:11:58 46 about honouring - I was never going to honour them. Like I
11:12:01 47 said, whilst I thought I was dicking him, he was dicking

11:12:05 1 me, you know what I mean, and that was it.
11:12:09 2
11:12:10 3 I just want to ask you about two entries because I
11:12:13 4 understand that from you. Ms Gobbo sees ██████ on ██████
11:12:18 5 2004. The note reads, "Meeting with ██████ re Person 12 and
11:12:25 6 ██████ and ██████. I assume ██████ is ██████. And it's at
11:12:26 7 9 am?---Who's ██████?
11:12:28 8
11:12:28 9 I don't know. "Concern re giving evidence
11:12:32 10 cross-examination at bail app", so it looks like there's
11:12:37 11 discussion about a bail application for you?---I don't
11:12:39 12 know. I don't know.
11:12:40 13
11:12:40 14 On ██████, so just under two weeks later, there's the
11:12:44 15 following note, and I don't mind giving you a copy to have
11:12:47 16 a look at, and this is a conference she has with
11:12:51 17 you?---Okay.
11:12:52 18
11:13:06 19 This is a note of a conference with you on ██████. Where
11:13:14 20 it says Person 12 is your name written there but it's been
11:13:17 21 blocked out, okay. Do you recall a conference with
11:13:20 22 Ms Gobbo by video conference, so she's on the TV, ██████
11:13:28 23 ██████?---Well these are the words, these are the words I used
11:13:31 24 in the Royal Commission.
11:13:33 25
11:13:33 26 This is a note taken 2004. Do you remember saying when -
11:13:41 27 so she's referred to a conversation with ██████ which I
11:13:45 28 suggest to you was that from two weeks earlier where she'd
11:13:49 29 spoken to ██████ about him giving evidence at your bail
11:13:52 30 application, and it appears to be she's telling you that
11:13:56 31 he's not going to do so. Do you remember saying to her,
11:14:00 32 "I'd be leading my family to the slaughter"?---Just stop.
11:14:04 33 Did you just say that she told me that ██████ wasn't going
11:14:08 34 to give me bail?
11:14:09 35
11:14:10 36 Yes, wasn't going to help?---That never happened.
37
38 No?---That never happened.
39
11:14:11 40 How did you know ██████ - - - ?---What I can tell you I told
11:14:12 41 you. I brought ██████ to the boil, right. I said to him, I
11:14:15 42 said, "Either I'm getting bail or I'm not". Next thing he
11:14:18 43 came in and that's when he said to me, "You're a dangerous
11:14:22 44 criminal, you are not getting bail. I will see you in
11:14:25 45 court". I think it was not long after I said, "We will see
11:14:29 46 about that".
11:14:30 47

11:14:30 1 Okay. Do you remember, because I want to be clear about
11:14:33 2 this, the reason you chose not to give evidence and honour
11:14:37 3 the undertaking was your own decision, wasn't it, there was
11:14:40 4 no pressure put on you by anyone?---Not that I know of.

11:14:45 5
11:14:45 6 Ms Gobbo wasn't saying to you, [REDACTED]
11:14:49 7 [REDACTED]
11:14:52 8 [REDACTED]
11:14:56 9 [REDACTED] ?---No.

11:14:57 10
11:14:57 11 No, of course not?---Not that I recall, no.

11:15:00 12
11:15:00 13 And you'd remember that? As you've said, you had no
11:15:04 14 intention of giving evidence against - - - ?---I never had
11:15:06 15 an intention of giving evidence, but at the same time, at
11:15:09 16 the same time I also, I also, right, one night was having a
11:15:13 17 cigarette at [REDACTED] Prison and a [REDACTED],
11:15:18 18 all right, turns around and comes out with a [REDACTED]
11:15:22 19 and he just looks at me and he says, [REDACTED]
11:15:26 20 [REDACTED]
11:15:30 21 [REDACTED]. And I thought about it and I thought about it for a
11:15:33 22 minute and I thought, "Did I just get a message".

11:15:37 23
11:15:37 24 [REDACTED] ?---You know, and then I went and
11:15:39 25 [REDACTED]
11:15:43 26 [REDACTED]
11:15:50 27 [REDACTED]
11:15:52 28 [REDACTED]
11:15:53 29 [REDACTED]

11:15:54 30
11:15:55 31 Can we just go through this note because I just want to see
11:15:56 32 if this was your position or if this jogs your memory. Do
11:15:58 33 you remember saying something along the lines of, "I'd be
11:16:02 34 leading my family to the slaughter"?---Them words were used
11:16:03 35 in the [REDACTED].

11:16:03 36
11:16:04 37 Okay. That was a reference - - - ?---I've never used them
11:16:11 38 to Ms Gobbo. I've never used them to Ms Gobbo and Ms Gobbo
11:16:12 39 was not at the [REDACTED]. I had to appear there on
11:16:15 40 my own.

11:16:17 41
11:16:17 42 [REDACTED]
11:16:20 43 [REDACTED] Do you remember a
11:16:22 44 conversation along those lines between you and
11:16:26 45 Ms Gobbo?---Never.

11:16:26 46
11:16:26 47 Do you remember saying, "Get me into the Court of Appeal

11:16:29 1 and get me resentenced" because by then you weren't going
11:16:33 2 to give evidence against the [REDACTED]?---No.
11:16:35 3
11:16:35 4 The next line, "I've told lots of lies in the hope of
11:16:38 5 getting bail", would you have ever said that to
11:16:44 6 Ms Gobbo?---No.
11:16:44 7
11:16:45 8 The next one is, "Give [REDACTED] fair warning", he was involved
11:16:51 9 in your case, wasn't he? And then, "Simply wants someone
11:16:52 10 to be there next Monday"?---Sorry, what?
11:16:53 11
11:16:53 12 Reading that note does that jog a memory of a conversation
11:16:56 13 with Ms Gobbo about you simply not wanting to honour your
11:16:59 14 agreement of giving evidence against - - -?---Mate, these
11:17:02 15 conversations that you're referring to, I can tell you
11:17:06 16 right now I've never had them stupid conversations with
11:17:09 17 Gobbo.
11:17:09 18
11:17:09 19 So you can remember that?---I'm telling you right now, this
11:17:12 20 conversation here that's written down, I said them exact
11:17:13 21 words when they asked me questions at the [REDACTED],
11:17:16 22 that is the exact words I said to the [REDACTED] I think they
11:17:21 23 called him. I think they called him an [REDACTED] in the
11:17:29 24 [REDACTED].
11:17:40 25
11:17:41 26 Thank you very much, Person 12?---My pleasure.
11:17:48 27
11:17:49 28 COMMISSIONER: Ms Argiropoulos.
11:17:51 29
30 <CROSS-EXAMINED BY MS ARGIROPOULOS:
31
11:17:52 32 Person 12, I act on behalf of Victoria Police and [REDACTED]
11:17:55 33 [REDACTED]?---Yes.
11:17:57 34
11:17:57 35 I just have a couple of questions for you?---Yep.
11:17:59 36
11:18:00 37 Firstly, you've given evidence in this Commission that your
11:18:03 38 statement was provided on the condition that [REDACTED] would
11:18:08 39 support you in your application for bail?---Yes.
11:18:10 40
11:18:13 41 [REDACTED] says that he never indicated to you that he would
11:18:17 42 support your application for bail?---He's a liar. He is a
11:18:22 43 liar.
11:18:22 44
11:18:22 45 So you disagree with that?---100 per cent.
11:18:26 46
11:18:27 47 You've given evidence as well in this Royal Commission that

11:18:32 1 [REDACTED] said to you words to the effect of, "You're a
11:18:36 2 dangerous criminal and you won't be getting bail"?---Yes.
11:18:39 3
11:18:41 4 [REDACTED] denies using words to that effect?---[REDACTED] again
11:18:47 5 is a liar. He is lying.
11:18:48 6
11:18:50 7 Finally, [REDACTED] says that on the only occasion that he
11:18:58 8 discussed bail with you, he told you that he thought you
11:19:04 9 probably wouldn't get bail because of the seriousness of
11:19:06 10 the offence, you were charged with [REDACTED] at that
11:19:09 11 stage?---He is lying. Because let me tell you, I can
11:19:12 12 remember one of the conversations, if I got bail he wanted
11:19:15 13 me to have a meeting with [REDACTED]. He actually wanted me
11:19:19 14 to wear a wire, right, and have a meeting with [REDACTED] and
11:19:24 15 that was one of the conditions.
11:19:28 16
11:19:29 17 Thank you Commissioner, I have no further questions.
11:19:30 18
11:19:31 19 COMMISSIONER: Thanks Ms Argiropoulos. Mr Nathwani, I
11:19:33 20 should say, should this be tendered, the extract from - - -
11:19:38 21
11:19:39 22 MR NATHWANI: Yes. Yes, it should be.
11:19:39 23
11:19:39 24 COMMISSIONER: It's an extract from Ms Gobbo's diary, is
11:19:42 25 it, or court book?
11:19:44 26
11:19:45 27 MR NATHWANI: Court book.
11:19:47 28
11:19:48 29 WITNESS: Your Honour, this here is from [REDACTED]
11:19:50 30 [REDACTED]. This here, I can tell you is 100 per cent,
11:19:55 31 it's from [REDACTED] and Nicola Gobbo never
11:19:58 32 attended [REDACTED].
11:20:01 33
11:20:01 34 COMMISSIONER: Did you discuss [REDACTED] with
11:20:04 35 Ms Gobbo?---I've never discussed [REDACTED] with
11:20:07 36 Ms Gobbo.
11:20:07 37
11:20:07 38 All right then, thank you.
11:20:08 39
11:20:09 40 MR NATHWANI: The extract is from [REDACTED] 2004.
11:20:12 41
11:20:12 42 COMMISSIONER: Is it a particular court book?
11:20:14 43
11:20:14 44 MR NATHWANI: It is.
11:20:15 45
11:20:15 46 COMMISSIONER: So it can be identified.
11:20:17 47

11:20:17 1 MR NATHWANI: It's a court book and it's - just give me one
11:20:21 2 moment. Court book, first entry, [REDACTED] 2004.
11:20:32 3
11:20:33 4 COMMISSIONER: Court book dating from [REDACTED] 2004.
11:20:36 5
11:20:37 6 MS TITTENSOR: If it assists, I understand that we may have
11:20:40 7 a version of this document with a bar code on it which
11:20:45 8 we'll endeavour to let the Commission know about,
11:20:51 9 Commissioner.
11:20:52 10
11:20:52 11 COMMISSIONER: All right then. This extract will be
11:20:56 12 Exhibit 148 and if you can later tell me what the bar code
11:20:59 13 is for it then it can be loaded electronically.
11:21:04 14
11:21:05 15 #EXHIBIT RC148 - Extract from court book dated [REDACTED]
11:20:35 16 2004.
11:21:08 17
11:21:09 18 MS TITTENSOR: I just had one further matter to deal with,
11:21:11 19 with the witness.
11:21:11 20
11:21:12 21 COMMISSIONER: Perhaps I'll just check there's no
11:21:14 22 cross-examination by anybody else with leave to appear?
11:21:17 23 No. Then back to you, Ms Tittensor, yes.
11:21:21 24
25 <RE-EXAMINED BY MS TITTENSOR:
26
11:21:21 27 You've indicated you had - your dealings in relation to the
11:21:25 28 [REDACTED] in terms of the police were with [REDACTED]
11:21:32 29 at the ESD?---Yep.
11:21:33 30
11:21:34 31 You've indicated in your evidence during this time period
11:21:37 32 you had a distrust for another ESD Peter De Santo; is that
11:21:41 33 right?---Yep.
11:21:42 34
11:21:42 35 I just wanted to ask you whether you told your lawyers, in
11:21:45 36 particular Ms Gobbo, about that distrust?---I may have
11:21:55 37 discussed it because they were getting warned, while
11:21:59 38 [REDACTED] was getting warned every step of the
11:22:02 39 investigation, what they got, by De Santo.
11:22:05 40
11:22:05 41 So do you say it's likely, it's possible or you would have
11:22:09 42 discussed these things with Ms Gobbo?---Likely, you know.
11:22:14 43
11:22:15 44 Thank you, Commissioner.
11:22:16 45
11:22:17 46 COMMISSIONER: Thank you. Thank you witness, you're free
11:22:20 47 to go now?---Thank you.

11:22:22 1
11:22:23 2 Yes, we'll take that from you.
11:22:29 3
11:22:30 4 (Witness excused.)
5
6 <(THE WITNESS WITHDREW)
7
11:22:31 8 COMMISSIONER: Yes, Mr Furstenberg.
11:22:34 9
11:22:35 10 MR FURSTENBERG: Thank you, Commissioner. If I could be
11:22:36 11 excused? One issue. I sent through an email yesterday in
11:22:39 12 relation to some redactions to some exhibits, one more
11:22:42 13 significant than the other. If there's no issue with those
11:22:45 14 requests then I'd seek to be excused.
11:22:46 15
11:22:46 16 COMMISSIONER: This was redactions to Person's 12
11:22:48 17 statement?
11:22:49 18
11:22:49 19 MR FURSTENBERG: Redactions to exhibits that were put to
11:22:52 20 Mr Campbell.
11:22:54 21
11:22:54 22 MS TITTENSOR: Those are being reviewed by the Commission
11:22:57 23 staff. If we have any issues that need to be discussed
11:23:02 24 with Mr Furstenberg we'll do that and certainly prior to
11:23:05 25 any publication of those exhibits.
11:23:07 26
11:23:08 27 COMMISSIONER: Yes.
11:23:08 28
11:23:10 29 MR FURSTENBERG: If the Commissioner pleases. One final
11:23:13 30 matter. I'd just ask that notice be given to Person 12 if
11:23:16 31 any of [REDACTED] matters are
11:23:20 32 going to be called to give evidence.
11:23:23 33
11:23:23 34 COMMISSIONER: Yes, that seems reasonable. We note that
11:23:26 35 request.
11:23:28 36
11:23:29 37 MR FURSTENBERG: If the Commissioner pleases. If I might
11:23:31 38 be excused?
11:23:32 39
11:23:32 40 COMMISSIONER: Thanks Mr Furstenberg. The next witness is
11:23:35 41 going to be Mr Miechel?
11:23:36 42
11:23:37 43 MR WINNEKE: Yes, the witness is Mr Miechel.
11:23:40 44
11:23:40 45 COMMISSIONER: We need a short adjournment?
11:23:43 46
11:23:43 47 MR WINNEKE: Yes, thanks, Commissioner.

11:23:44 1
11:23:44 2 COMMISSIONER: I know there are a host of suppression
11:23:46 3 orders I've been given this morning in respect of
11:23:50 4 Mr Miechel. Do any of those affect the way he's going to
11:23:53 5 give evidence? Are there any submissions about that?
11:23:54 6
11:23:56 7 MR WINNEKE: I don't think so. It will effect a couple of
11:23:58 8 matters but I'll see if I can deal with that without
11:24:02 9 breaching any suppression orders.
11:24:03 10
11:24:03 11 COMMISSIONER: All right then. We'll adjourn for a few
11:24:05 12 minutes while we sort those things out.
11:24:34 13
11:24:34 14 (Short adjournment.)
15
11:46:45 16 COMMISSIONER: Mr Winneke.
11:46:46 17
11:46:47 18 MR WINNEKE: Thanks Commissioner. We're ready to proceed
11:46:49 19 with the evidence of Mr Miechel. I call David Miechel.
11:46:53 20 He's already in the box.
11:46:55 21
11:46:55 22 COMMISSIONER: Oath or affirmation,
11:46:59 23 Mr Miechel?---Affirmation.
24
11:47:01 25 Thank you.
11:47:01 26
11:47:03 27 <DAVID ANTHONY MIECHEL, affirmed and examined:
11:47:14 28
11:47:14 29 COMMISSIONER: Yes.
11:47:14 30
11:47:15 31 MR WINNEKE: Thanks Commissioner. Now can you tell the
11:47:17 32 Commission your full name, please?---David Anthony Miechel.
11:47:22 33
11:47:25 34 You don't need to give your address to the Commission,
11:47:28 35 you're content to provide the Commission your address in
11:47:31 36 private?---Yes.
11:47:32 37
11:47:33 38 And by occupation what are you doing at present?---Truck
11:47:36 39 driver.
11:47:37 40
11:47:40 41 Mr Miechel, you made or you provided the Commission with a
11:47:46 42 typed document as a response to a request for a statement,
11:47:50 43 is that correct?---That's correct.
11:47:52 44
11:47:52 45 Have you got a copy of that in front of you there?---Yes, I
11:47:55 46 have.
11:47:55 47

11:47:59 1 As to the contents of that document, albeit it's not
11:48:04 2 signed, do you say that the contents of that statement are
11:48:08 3 true and correct?---Yes, it is.
11:48:10 4
11:48:11 5 Yes?---Yes.
11:48:11 6
11:48:12 7 Is there anything you want to change about that
11:48:15 8 statement?---No.
11:48:15 9
11:48:16 10 I tender that, Commissioner.
11:48:17 11
11:48:18 12
11:48:18 13 #EXHIBIT RC149 - Statement of David Miehchel.
11:48:23 14
11:48:26 15 MR HOLT: Commissioner, there is no issue with this
11:48:30 16 witness's statement to be published.
11:48:31 17
11:48:32 18 COMMISSIONER: That's right, yes. It can be published on
11:48:33 19 the website.
11:48:34 20
11:48:34 21 MR WINNEKE: That's good news.
11:48:35 22
11:48:36 23 COMMISSIONER: Yes, it is.
11:48:37 24
11:48:37 25 MR WINNEKE: Can I ask you a little bit about your
11:48:39 26 background in the Police Force, Mr Miehchel. I think the
11:48:42 27 situation is that you went out to the Academy in about 1988
11:48:47 28 or 89, is that right?---89, yes.
11:48:49 29
11:48:50 30 Where were you first positioned after graduating from the
11:48:56 31 Academy, where were you stationed?---Broadmeadows.
11:48:58 32
11:48:59 33 And do you recall how long you were there for?---12 months.
11:49:02 34
11:49:03 35 After that?---D24.
11:49:07 36
11:49:08 37 For a period of?---12 months.
11:49:09 38
11:49:10 39 After D24?---Moonee Ponds.
11:49:13 40
11:49:13 41 You were at Moonee Ponds from about 1990, 91, is that
11:49:18 42 right?---That's correct.
11:49:19 43
11:49:19 44 And how long were you at Moonee Ponds for?---Till 97.
11:49:25 45
11:49:26 46 When you were at the Moonee Ponds, are you in uniform at
11:49:30 47 Moonee Ponds police station?---Yeah, for the majority of

11:49:33 1 the time.
11:49:33 2
11:49:34 3 And you did, there were periods of time when you were in
11:49:36 4 plain clothes when you were attached to the DSG, is that
11:49:40 5 right?---That's correct.
11:49:41 6
11:49:42 7 That's the District Support Group at Moonee Ponds?---Yes.
11:49:46 8
11:49:47 9 At that time at Moonee Ponds was there a Mr Marty Allison
11:49:50 10 there?---Yes, he was.
11:49:52 11
11:49:55 12 Who was in charge of the DSG, do you recall?---No, I don't.
11:50:00 13
11:50:01 14 Was Mr Dale at Moonee Ponds there for a while as well, Paul
11:50:06 15 Dale?---Yes, he was.
11:50:07 16
11:50:09 17 Did you obviously become friends with Allison when you were
11:50:13 18 there?---Yes, I did.
11:50:15 19
11:50:15 20 And Mr Dale also, did you become friends?---For
11:50:20 21 association, yes.
11:50:20 22
11:50:20 23 I think - did you play football?---No.
11:50:24 24
11:50:26 25 Did you socialise with any of those, your colleagues when
11:50:29 26 you were at the DSG or at Moonee Ponds?---Um, most likely
11:50:40 27 did.
11:50:41 28
11:50:45 29 Now, do you recall that around 1995 the DSG, the Moonee
11:50:56 30 Ponds DSG was involved in a search pursuant to warrant of
11:51:00 31 an address at 250 Rathdowne Street which belonged to Nicola
11:51:06 32 Gobbo?---No.
11:51:07 33
11:51:07 34 Did you know then when you were there of Nicola Gobbo or
11:51:15 35 anything to do with her at that time?---No.
11:51:17 36
11:51:23 37 Since then have you spoken to anyone about Nicola Gobbo's
11:51:30 38 involvement in a search, sorry, in respect of the execution
11:51:37 39 of a search warrant at Nicola Gobbo's address, have you
11:51:40 40 ever spoken to anyone about that?---No.
11:51:42 41
11:51:42 42 Sitting here today you know nothing about that and never
11:51:45 43 have?---That's correct.
11:51:46 44
11:51:47 45 All right then. Do you recall when it was that you did
11:51:52 46 first meet Nicola Gobbo?---Um, probably early 2000s when
11:52:02 47 she was representing a client.

11:52:05 1
11:52:06 2 All right. If we can go back to your history, I think you
11:52:11 3 said you were at the Moonee Ponds police station till about
11:52:14 4 97. Did you then move into the Drug Squad as it then
11:52:20 5 was?---That's correct.
11:52:21 6
11:52:21 7 And were you then a - was that the first place where you
11:52:27 8 were a Detective?---That's correct.
11:52:27 9
11:52:28 10 You were a Detective Senior Constable attached to the Drug
11:52:31 11 Squad, is that right?---Yes.
11:52:33 12
11:52:33 13 You were in, as I understand it, Unit 2, is that
11:52:37 14 right?---That's correct.
11:52:37 15
11:52:39 16 Who were your colleagues there when you first arrived at
11:52:43 17 the Drug Squad, do you recall?---Um, there were numerous.
11:52:51 18
11:52:53 19 Whose unit were you in?---Mark Bowden was the Senior
11:52:59 20 Sergeant.
11:52:59 21
11:53:00 22 Do you recall the sergeants who you had when you were
11:53:03 23 there?---I didn't have a Sergeant initially.
11:53:05 24
11:53:05 25 Right. Mr Strawhorn was in your unit I gather at some
11:53:10 26 stage?---He was a Sergeant within the unit.
11:53:12 27
11:53:17 28 Is it the case that when you were at the Drug Squad that's
11:53:21 29 when you first got to know or at least came into contact
11:53:24 30 with Ms Gobbo?---That's correct.
11:53:27 31
11:53:28 32 Do you recall whether that was in 97, 98 or 99 or are you
11:53:36 33 able to put a date on that?---It was when I - it was
11:53:43 34 relation to defendants Wade or Pidoto who she represented.
11:53:49 35
11:53:49 36 In your statement you say, "I can remember only four
11:53:52 37 occasions" that you met Nicola Gobbo, "And all four
11:53:55 38 meetings were within the court system and she was
11:53:58 39 representing people who had been charged and I was either
11:54:01 40 the informant or a witness"?---That's correct.
11:54:02 41
11:54:03 42 You say, "Two times while she was representing a defendant
11:54:07 43 named Shane Pidoto". Just before we get to Pidoto, you
11:54:13 44 were, as I understand it, involved in an operation called
11:54:17 45 Kayak which was an examination of or an investigation
11:54:22 46 concerning a number of significant drug dealers in
11:54:26 47 Melbourne, is that right?---That's correct.

11:54:28 1
11:54:29 2 And were you particularly involved in a branch of that
11:54:33 3 investigation called Operation Yacht which was focusing on
11:54:37 4 Andrew and Mandy Hodson?---I became informant in relation
11:54:43 5 to that job but I had nothing to do with the actual
11:54:47 6 workings of that job it was completed when I got there.
11:54:52 7 When I mean completed, actually it was completed in
11:54:55 8 relation to the investigation and then I obviously put the,
11:54:59 9 assisted with the brief and the interviews.
11:55:04 10
11:55:04 11 Yes. Do you understand why it was that you became the
11:55:07 12 informant?---It was just spreading the workload around.
11:55:12 13
11:55:13 14 Was that at a time when there were some issues with members
11:55:16 15 of the Drug Squad and problems which had arisen because of
11:55:24 16 allegations of corruption within the Drug Squad?---No, no,
11:55:29 17 it was just spreading the workload around. Other people
11:55:32 18 had already become informants and I'd arrived there and
11:55:36 19 they gave me that job.
11:55:37 20
11:55:37 21 At that stage do you recall who your Sergeant was?---Um,
11:55:49 22 well Detective Senior Sergeant Strawhorn was running the
11:55:57 23 Task Force. Detective Sergeant Rosenes was there and
11:56:03 24 Detective Sergeant Allison was there. I don't know that I
11:56:05 25 was directly under an individual Sergeant.
11:56:08 26
11:56:08 27 In any event you were directed to be the person who was the
11:56:13 28 informant, is that right?---That's correct.
11:56:16 29
11:56:19 30 If I can perhaps ask you this: shortly after that arrest,
11:56:30 31 which we understand it was about 24 August of 2001, that is
11:56:40 32 the arrest of Andrew Hodson and his sister, there were
11:56:43 33 discussions which took place with the father, Terrence
11:56:48 34 Hodson, is that right?---During the interview process?
11:56:55 35
11:56:55 36 Did you interview Terrence Hodson?---I did.
11:56:59 37
11:57:02 38 As a result or subsequent to the interview it's understood
11:57:06 39 that Mr Hodson became an informer?---Yes, later on, yes.
11:57:10 40
11:57:10 41 Later on. In about September, so a number of weeks
11:57:14 42 afterwards, is that right?---Sounds right.
11:57:16 43
11:57:16 44 At that stage you were the person who was nominated as his
11:57:22 45 handler, correct?---That's correct.
11:57:23 46
11:57:26 47 Initially there was a controller, is that right?---Yes.

11:57:31 1
11:57:31 2 And do you recall who that was?---No, I don't.
11:57:34 3
11:57:36 4 Was Mr Strawhorn involved in that process?---Um, the
11:57:45 5 paperwork would have went up through him.
11:57:48 6
11:57:49 7 In any event, subsequent to that, the registration of Terry
11:57:55 8 Hodson as an informer, he was, without going into detail,
11:58:00 9 used for the purposes of the Drug Squad to obtain
11:58:05 10 information which led to investigations and people being
11:58:09 11 charged?---That's correct.
11:58:10 12
11:58:12 13 If there were communications with Mr Hodson then an
11:58:18 14 information report would be prepared?---That's correct.
11:58:21 15
11:58:22 16 And you being the person who was handling Mr Hodson, you
11:58:25 17 would often be the person who prepared the information
11:58:29 18 report?---That's correct.
11:58:30 19
11:58:30 20 I take it the information reports were prepared in such a
11:58:34 21 way as to not include the name of the informer but to
11:58:39 22 include a registration number, is that right?---That's
11:58:41 23 correct.
11:58:41 24
11:58:42 25 And the initial number of Mr Hodson I think was 390, is
11:58:48 26 that correct, do you recall?---That sounds correct, yep.
11:58:51 27
11:58:53 28 If I can come back to your statement. You mention that you
11:58:59 29 were the informant, or at least you charged the person by
11:59:03 30 the name of Shane Pidoto, is that right?---That's correct.
11:59:06 31
11:59:07 32 I wonder if we can put up a slide which might assist you in
11:59:12 33 terms of the dates and times and so forth. This is a
11:59:18 34 document from the Office of Public Prosecution database
11:59:25 35 concerning Gobbo appearances. If we see at the top part of
11:59:31 36 that document, you'll see that there's matters concerning
11:59:40 37 Andrew Hodson, there's particular hearings, case
11:59:43 38 conference, bail applications, directions hearings and
11:59:45 39 various mentions. There's the name of the prosecutor, then
11:59:48 40 there's the name of the defence counsel and then there's
11:59:51 41 your name as the informant, is that right?---That's
11:59:53 42 correct.
11:59:53 43
11:59:53 44 It appears that the first hearing in which Ms Gobbo was
11:59:58 45 involved in relation to Hodson was on 2 May of 2002. It
12:00:04 46 was a case conference. And then there was a bail
12:00:09 47 application on 16 May 2002 in which there was a Mr McArdle

12:00:17 1 the prosecutor, Ms Gobbo was acting for Andrew Hodson and
12:00:21 2 again you were the informant. Do you recall the bail
12:00:27 3 application in which Mr Hodson ultimately got bail?---I
12:00:34 4 don't know.
12:00:34 5
12:00:35 6 I think you've said there were occasions when she might
12:00:38 7 have asked you a number of questions. You've said during a
12:00:42 8 committal hearing but were you also asked questions during
12:00:47 9 the course of bail applications by Ms Gobbo?---I'm not
12:00:50 10 sure. I'm not even sure if I was present, someone else
12:00:56 11 could have attended on that day.
12:00:57 12
12:00:58 13 It may be albeit you were the informant, you wouldn't
12:01:03 14 necessarily be at the court on every occasion there was a
12:01:05 15 hearing?---No, and if I was on leave someone else from the
12:01:08 16 crew would just attend and give the evidence.
12:01:10 17
12:01:11 18 I should say this, the Commission has information to the
12:01:14 19 effect that Ms Gobbo says of you that the dealings that she
12:01:19 20 had with you were in a professional capacity only and never
12:01:23 21 in a social capacity, is that your recollection?---That's
12:01:26 22 correct.
12:01:26 23
12:01:27 24 In effect what you're saying is, "I've spoken to Gobbo.
12:01:30 25 When I spoke to her I was at court and there were other
12:01:33 26 people about as a general rule"?---Yeah, I've never spoken
12:01:37 27 to her outside of being inside a court area.
12:01:40 28
12:01:42 29 If I can ask you about a matter of, the matter that you've
12:01:50 30 spoken of, the matter of Pidoto?---Actually, I'd just like
12:01:54 31 to fix that up. I've never spoke to her in person. I've
12:02:00 32 obviously had phone calls regarding the case where she's
12:02:03 33 rung up about property or about something with the case
12:02:06 34 most likely, yeah, I've spoken to her over the phone during
12:02:10 35 these applications and what have you.
12:02:14 36
12:02:14 37 I asked you before about Mr Hodson. The matter of Pidoto
12:02:19 38 which we can see there which is in effect in the second
12:02:23 39 group of cases, do you see that there, there was a
12:02:26 40 committal mention on 1 November 2002 and there's a
12:02:32 41 prosecutor McQuillan, Gobbo for the defence and you're the
12:02:35 42 informant, do you see that?---Yes.
12:02:36 43
12:02:37 44 There's a bail application 14 November 2002. Do you recall
12:02:43 45 either that bail application or the one on 9 December 2002
12:02:48 46 when Ms Gobbo appeared?---No, I don't.
12:02:51 47

12:02:55 1 I've asked you questions about Mr Hodson. He was a person,
12:03:02 2 an informer who provided information which enabled you to
12:03:07 3 investigate and ultimately arrest Mr Pidoto, is that
12:03:11 4 correct?---That's correct.
12:03:12 5
12:03:13 6 And if you go down the screen there's another person called
12:03:22 7 Shaheen Waheed, do you see that?---Yes.
12:03:25 8
12:03:25 9 Again where you were the informant and Ms Gobbo was counsel
12:03:28 10 for the defence?---Yes.
12:03:30 11
12:03:32 12 It appears that there was a hearing that she was involved
12:03:37 13 in on 3 April and then there was a case conference and
12:03:43 14 finally there was a plea in September of 2003. Now, can I
12:03:49 15 ask you this: in relation to Waheed, was he a person also
12:03:56 16 who Mr Hodson had provided information to you which enabled
12:04:01 17 you to effect the arrest and prosecution of
12:04:06 18 Waheed?---That's correct.
12:04:06 19
12:04:08 20 If we can just go over the page, or scroll down the page.
12:04:20 21 There's a matter of a D'Aloia, do you see that, where the
12:04:27 22 informant is Paul Dale, defence is Gobbo and there are a
12:04:32 23 number of hearings in relation to Mr D'Aloia. Do you
12:04:35 24 remember that case or that matter?---No, I don't.
12:04:38 25
12:04:40 26 Are you in a position to say whether or not - I take it
12:04:44 27 you're not by your last answer, whether or not Mr Hodson
12:04:48 28 was involved in the provision of information that led to
12:04:50 29 that investigation and arrest?---Yeah, I don't recall.
12:04:53 30
12:04:54 31 Perhaps if we can go back to the previous page. During the
12:05:00 32 course of hearings in relation to these matters was
12:05:05 33 Ms Gobbo involved in seeking information from police to in
12:05:13 34 effect advance the cause of her clients?---Yes, she was.
12:05:17 35
12:05:17 36 Were they applications for documents or subpoenas and those
12:05:21 37 sorts of things, disclosure?---That's correct.
12:05:23 38
12:05:27 39 Do you recall a particular hearing in which you had a
12:05:30 40 discussion with Ms Gobbo about whether or not you should be
12:05:37 41 providing information that might have identified your
12:05:41 42 informer?---That's correct.
12:05:43 43
12:05:44 44 And do you recall whether it was a hearing that concerned
12:05:51 45 Pidoto or Shaheen?---Yeah, I thought it was Pidoto but it
12:05:58 46 may have been Waheed, it was one or the other.
12:06:02 47

12:06:02 1 Can you tell the Commission to the best of your
12:06:06 2 recollection what was involved in the discussion?---You
12:06:10 3 mean directly with - - -
12:06:12 4
12:06:12 5 Yes, with Ms Gobbo. Did you have a discussion with
12:06:15 6 Ms Gobbo in court about the matters that were the subject
12:06:19 7 of the application?---Yeah, during one of the breaks or
12:06:23 8 after the hearing she approached me and said that she was
12:06:28 9 aware of who 390 was, being the informer.
12:06:33 10
12:06:34 11 Yes. Did you understand how she'd managed to work that
12:06:38 12 out?---She was representing both of those clients and the
12:06:42 13 code name for the informer was obviously on the, it was
12:06:49 14 covering the identity of the informer, so she had the
12:06:53 15 number of the informer on both cases.
12:06:55 16
12:06:55 17 Do you know - when you say it was covering the name are you
12:07:00 18 talking about a particular document that you believed that
12:07:02 19 she had?---Yeah, it would have been part of the affidavit.
12:07:06 20 So instead of mentioning the name Terry Hodson it would
12:07:10 21 have been 390 as a reference hiding his name.
12:07:14 22
12:07:15 23 The idea of putting the number over the name was to prevent
12:07:19 24 the identification of that person?---That's correct.
12:07:21 25
12:07:21 26 As I understand it Hodson had provided a significant amount
12:07:25 27 of information which had led to a significant amount of
12:07:28 28 arrests, is that right?---That's correct.
12:07:30 29
12:07:30 30 And in particular she had information concerning at least
12:07:35 31 two of those matters as far as you were aware, Pidoto and
12:07:39 32 Waheed?---That's correct.
12:07:41 33
12:07:41 34 There might have been others?---And within a short period
12:07:44 35 of time too.
12:07:45 36
12:07:45 37 You understood that she'd been provided with briefs of
12:07:50 38 evidence in relation to these prosecutions?---Yes.
12:07:53 39
12:07:53 40 And obviously she was seeking to obtain further
12:07:57 41 information, including subpoenaing material and in some way
12:08:02 42 shape or form she got more documents including documents
12:08:05 43 which might have been attached to an affidavit which had
12:08:08 44 the informer number of Terry Hodson?---That's correct.
12:08:11 45
12:08:17 46 Did you understand or did you have a view that people had
12:08:22 47 who had been charged were trying to find the names or would

12:08:25 1 be interested in the names of the informers?---That's the
12:08:28 2 general process that I found with drug dealers, is they all
12:08:34 3 ran committals and it was in relation to finding out how
12:08:38 4 we'd actually uncovered them and charged them and to
12:08:42 5 uncover informers. Nearly every one of my cases they ended
12:08:46 6 up pleading guilty but they still ran a lengthy committal
12:08:51 7 and the main focus of that committal was to find out how we
12:08:55 8 came about charging them and trying to work out our
12:08:57 9 process.

12:08:57 10
12:08:58 11 You would I take it appropriately, would you say defend
12:09:04 12 applications for disclosure where you thought it wasn't
12:09:08 13 appropriate that the name of an informer or material which
12:09:11 14 would lead to the identification of an informer might be
12:09:15 15 disclosed?---Well that's correct because we had to disclose
12:09:20 16 all the information that we had in relation to that case,
12:09:23 17 so we were disclosing the fact that we weren't giving over
12:09:27 18 everything and we were claiming that the other part of it
12:09:31 19 was privileged, so then that enabled the barristers to
12:09:36 20 realise that we had other information and then it was
12:09:39 21 whether they wanted to make application to try and get that
12:09:42 22 from us.

12:09:42 23
12:09:42 24 So as soon as you made a claim for public interest
12:09:48 25 immunity, then it became apparent to them that there was
12:09:51 26 information that might suggest that there was an
12:09:54 27 informer?---That's correct.

12:09:55 28
12:09:56 29 And you say that there was a discussion that you had with
12:09:59 30 Ms Gobbo at one of these hearings?---Yes.

12:10:01 31
12:10:03 32 Looking at that list there, are you able to tell the
12:10:08 33 Commission when that might have been?---Yeah, I actually
12:10:16 34 thought it was the case relating to Shane Pidoto but for
12:10:21 35 some reason the prosecutor, C Ryan, Chris Ryan, I believe
12:10:24 36 he was involved on that day, so it could very well have
12:10:30 37 been, but I don't think it was a committal hearing. It may
12:10:30 38 have been listed as a committal hearing.

12:10:32 39
12:10:33 40 It could have been potentially 3 April 2003 but you don't
12:10:44 41 think it was a committal hearing?---I thought it was just a
12:10:49 42 specific hearing relating to - - -

12:10:53 43
12:10:53 44 A subpoena?---- - - whether we could keep the immunity of
12:10:58 45 the details that we were hiding from them.

12:11:01 46
12:11:02 47 What about if you have a look at an application on 21 May

12:11:05 1 2003 relating to Pidoto?---Yep.
12:11:09 2
12:11:10 3 So certainly by that stage she would have had material in
12:11:12 4 respect to Shaheen Waheed, if we assume the committal
12:11:18 5 hearing was on 3 April 2003?---Yes, could have been that
12:11:22 6 date.
12:11:22 7
12:11:23 8 In any event, she said to you that she knew who your
12:11:31 9 informer is, is that right?---That's correct.
12:11:35 10
12:11:35 11 Did she actually mention his name to you?---I can't
12:11:39 12 specifically, but I believe she did.
12:11:42 13
12:11:45 14 MR HOLT: Commissioner, can I just approach my learned
12:11:48 15 friend?
16
17 COMMISSIONER: Yes.
18
19 (Discussion at Bar table.)
12:12:00 20
12:12:00 21 MR HOLT: I'm just indicating to my learned friend in
12:12:02 22 accordance with the arrangement we have the original
12:12:05 23 diaries in court, and as we're attempting to do for every
12:12:07 24 witness where they're located I was just identifying that
12:12:10 25 for my friend in case there was a value in looking t
12:12:13 26 certain dates.
12:12:13 27
12:12:14 28 COMMISSIONER: Thanks very much.
12:12:20 29
12:12:21 30 MR WINNEKE: Now - - -
12:12:27 31
12:12:27 32 COMMISSIONER: You were just asking whether she mentioned
12:12:30 33 the name.
12:12:30 34
12:12:31 35 MR WINNEKE: Yes. Your belief is that she did mention his
12:12:34 36 name?---That's correct.
12:12:34 37
12:12:34 38 Was that a matter of concern to you then?---It was.
12:12:37 39
12:12:37 40 And why was that?---For the safety of Terrence Hodson.
12:12:43 41
12:12:43 42 And what did you do about it?---Returning back to the Drug
12:12:48 43 Squad I did a report in relation to the fact that she'd
12:12:53 44 made that claim and also to the fact that something had to
12:12:58 45 be changed within the informer - - -
12:13:00 46
12:13:00 47 Just hang on. Just before I do that, that discussion that

12:13:20 1 you had with Ms Gobbo about Mr Hodson's name and number,
12:13:27 2 was there another police officer present to your
12:13:30 3 recollection?---Yes, there was.
12:13:31 4
12:13:31 5 Who was that?---Peter De Santo.
12:13:34 6
12:13:34 7 Do you recall what contribution he made to that
12:13:40 8 discussion?---Yes, he came into that discussion and made
12:13:43 9 some smart alec comment relating to the fact that we'd used
12:13:49 10 that informer in a sting and I thought that was
12:13:53 11 inappropriate.
12:13:55 12
12:13:56 13 If I can just focus on that. Who was present when he made
12:14:00 14 that comment?---Ms Gobbo.
12:14:04 15
12:14:04 16 Right. So it was at least you, Ms Gobbo and
12:14:08 17 Mr De Santo?---That's correct.
12:14:09 18
12:14:11 19 He said that you'd used that informant in a sting, is that
12:14:15 20 right?---It was something to that effect.
12:14:17 21
12:14:17 22 Do you know what he was talking about or do you recall
12:14:20 23 now?---I don't, but I did a report in relation to exactly
12:14:24 24 what he said when I got back to the station.
12:14:26 25
12:14:26 26 You put in a report, did you?---Yes, that's correct.
12:14:28 27
12:14:29 28 Can you just describe what that was or who was the report
12:14:31 29 to?---It was just a report that went up through the bosses
12:14:36 30 declaring what had happened in the actual court system.
12:14:40 31
12:14:40 32 Who were the bosses at that stage to your
12:14:47 33 recollection?---Um.
34
12:14:55 35 COMMISSIONER: We're talking about April/May 2003?---It
12:14:59 36 would have been Wayne Strawhorn or James O'Brien I believe
12:15:04 37 as the Senior Sergeant.
12:15:06 38
12:15:06 39 MR WINNEKE: It may well have been - if it was in 2003 it
12:15:09 40 might not have been Mr Strawhorn?---That's correct.
12:15:12 41
12:15:12 42 Do you recall when Mr Strawhorn left the Drug Squad?---No.
12:15:15 43
12:15:16 44 I suggest to you it was back in - it was 2001, end of 2001.
12:15:21 45 So who were the bosses after to your recollection, after
12:15:24 46 that?---James O'Brien.
12:15:26 47

12:15:26 1 So Mr O'Brien, Jim O'Brien?---(Witness nods.)
12:15:29 2
12:15:29 3 If there was a report done at about, whether it be 2003 or
12:15:34 4 earlier in 2002, it's likely it would have gone up through
12:15:38 5 the ranks and your superior at that stage would have been
12:15:43 6 Mr O'Brien?---That's correct.
12:15:44 7
12:15:48 8 Did he take - to your recollection who took over after
12:15:52 9 Mr Strawhorn left?---Jim O'Brien.
12:15:55 10
12:15:55 11 All right then. Do you know whether Mr Hodson's informer
12:16:05 12 number was changed at any stage during the period that he
12:16:10 13 was an informer?---Yes, it was.
12:16:13 14
12:16:13 15 Do you know whether it was changed as a result of this
12:16:17 16 incident or was it another incident that led to the change
12:16:21 17 of his informer number?---No, this incident.
12:16:24 18
12:16:26 19 Do you know whether Mr Dale was involved in the discussions
12:16:29 20 which led to the change of his informer number?---I believe
12:16:35 21 so.
12:16:35 22
12:16:35 23 You believe that he was?---Yes.
12:16:37 24
12:16:38 25 Mr Dale came to the MDID in about June of 2002, is that
12:16:48 26 right?---I don't recall when he arrived.
12:16:52 27
12:16:53 28 But when he did arrive he was involved in handling
12:16:59 29 Mr Hodson and the process of getting information from
12:17:03 30 Mr Hodson?---That's correct.
12:17:05 31
12:17:05 32 After he arrived do you say that you had concern about the
12:17:09 33 possible identification of Mr Hodson by criminal
12:17:14 34 elements?---Yes.
12:17:15 35
12:17:16 36 And is that something that you discussed with Mr Dale
12:17:20 37 also?---Yes, I would have, yes.
12:17:22 38
12:17:24 39 Now, if I can just go back to your statement. You say that
12:17:37 40 you recall only the four meetings within the court system
12:17:43 41 and the matters that you've set out in your statement, two
12:17:48 42 times whilst she was representing Pidoto, another occasion
12:17:52 43 you attended a sentence hearing for a defendant whose name
12:17:55 44 you can't remember. She asked you a couple of questions in
12:17:58 45 relation to her client to confirm that he didn't have a
12:18:01 46 known history of prolonged drug trafficking. Would that
12:18:05 47 have been any of the names that you've got on the screen in

12:18:10 1 front of you?---Yes, that was Mr Waheed.
12:18:13 2
12:18:13 3 That was Mr Waheed, okay. You can remember another
12:18:16 4 occasion whilst giving evidence under oath she was present.
12:18:20 5 She may have asked you a number of questions during a
12:18:22 6 committal hearing and this was whilst she was acting as one
12:18:25 7 of the barristers for Mr Mokbel?---That's correct.
12:18:27 8
12:18:27 9 Was that a matter in which you were a witness?---That's
12:18:30 10 correct.
12:18:30 11
12:18:31 12 If we can scroll down the page. Do you know whether it was
12:18:39 13 a matter of D'Aloia?---No, the accused was Tony Mokbel.
12:18:47 14
12:18:47 15 The accused was Tony Mokbel?---That's correct.
12:18:50 16
12:18:51 17 If we can scroll down the page further. Was that in
12:18:56 18 relation to one of the Kayak charges?---No. It might have
12:19:03 19 been under the Kayak umbrella, yes.
12:19:06 20
12:19:06 21 Under the Kayak umbrella, all right. We see the name of an
12:19:11 22 informant, Belinda Hoppner. Was she one of the people in
12:19:18 23 your crew?---She was, yes.
12:19:19 24
12:19:20 25 And might you have had discussions with Ms Gobbo in the
12:19:26 26 context of appearing at court as a witness in proceedings
12:19:30 27 concerning that person there, Jankulovski?---I don't recall
12:19:39 28 that name.
12:19:40 29
12:19:41 30 What about the matter of Rodda?---Yep.
12:19:46 31
12:19:46 32 Yes?---Yeah.
12:19:48 33
12:19:48 34 Might you have had discussions with Ms Gobbo in relation to
12:19:51 35 that matter?---Yes, I could have, yes.
12:19:52 36
12:20:27 37 I wonder if you could have a look at this diary entry,
12:20:33 38 Mr Miechel. This is a diary entry dated 21 May 2005.
12:20:39 39 Sorry, a day book entry, concerning a matter or a hearing
12:20:46 40 in relation to Pidoto. Just have a look at that, that
12:20:50 41 might assist you. Just read that to yourself?---This is
12:21:48 42 21st, is it, of May?
12:21:50 43
12:21:50 44 Yes, 21 May. If we can scroll back up to the top you can
12:21:55 45 see there's an application in relation to Pidoto on 21 May
12:22:02 46 2003?---Yep.
12:22:05 47

12:22:05 1 Are you able to, looking at that entry in your day book,
12:22:09 2 work out what that was about?---It states here in my
12:22:23 3 writing that there was issues re defence wanting
12:22:25 4 adjournment to contest the mention, committal mention re
12:22:32 5 ESD issues.
12:22:33 6
12:22:34 7 Re ESD issue?---That's what I've written there.
12:22:42 8
12:22:42 9 Keep reading that, it's apparent that Mr De Santo is
12:22:46 10 present?---That's correct.
12:22:47 11
12:22:47 12 There doesn't appear to be any note in that diary or,
12:22:50 13 sorry, day book about anything said by Ms Gobbo but do you
12:22:55 14 think that might have been the occasion when she made that
12:23:00 15 comment to you or not?---Could very well have been, yes.
12:23:03 16
12:23:04 17 It could have been. In any event what you say is you made
12:23:07 18 a report about it?---That's correct.
12:23:08 19
12:23:24 20 Do you think that Mr Dale may have been present also?---No,
12:23:35 21 I don't recall whether he was or - yeah, well, at 09.55 I
12:23:42 22 was code 1, which means I was on the road with Dale, so he
12:23:47 23 very well may have been.
12:23:48 24
12:23:48 25 He very well may have been?---Unless he got dropped off
12:23:52 26 somewhere else but he certainly left the station and I was
12:24:00 27 heading to court.
12:24:00 28
12:24:01 29 It appears there may well be evidence from Mr Dale in due
12:24:06 30 court to this effect, that, "It was during this time,
12:24:09 31 2002/2003, that Ms Gobbo was representing a number of
12:24:13 32 offenders, started to put two and two together, in fact she
12:24:18 33 said to me in court on one of the bail hearings that she
34 knew who our informer was. She said she knew Terry Hodson
12:24:24 35 was our informer. She said this in an off-the-cuff manner
12:24:27 36 that alerted me to the fact that she was not 100 per cent
12:24:31 37 sure, however we would need to make some changes in our
12:24:34 38 processes to hide the fact that Terry Hodson was in fact
12:24:38 39 the informer". He then goes on to say, "I immediately
12:24:44 40 notified my supervisors, DS Sergeant James O'Brien and
12:24:45 41 Detective Superintendent Anthony Biggin and informed them
12:24:46 42 what had been said by Nicola Gobbo at court and that Terry
12:24:52 43 Hodson's identity as an informer was at risk". That
12:24:57 44 appears to be at least to some extent consistent with your
12:25:00 45 recollection?---That's correct.
12:25:01 46
12:25:16 47 Do you know whether Mr Dale had communications with

12:25:27 1 Ms Gobbo of a social nature?---No.
12:25:29 2
12:25:30 3 Perhaps I'll break that into two parts. Back then in
12:25:35 4 2002/2003 did you know that he was a friend of
12:25:41 5 Ms Gobbo's?---No.
12:25:41 6
12:25:42 7 Have you subsequently learnt that he was a friend of
12:25:44 8 Ms Gobbo's socially?---I haven't learnt it, I've heard
12:25:48 9 about it in media circles.
12:25:51 10
12:25:51 11 Have you heard anything of that nature from Mr Dale?---No.
12:25:56 12
12:25:57 13 When you say you've learnt about it, you've heard it, what,
12:26:03 14 through other means?---Yeah, newspapers, TV.
12:26:09 15
12:26:09 16 What you've read in the newspapers, okay. You say that at
12:26:29 17 no time during the period around mid to late 2003 did you
12:26:34 18 know that Ms Gobbo and Paul Dale were friendly?---No.
12:26:39 19
12:26:40 20 Did you socialise with Mr Dale at around that time?---Yeah,
12:26:44 21 I would have.
12:26:45 22
12:26:46 23 On a regular basis?---No.
12:26:49 24
12:26:50 25 How regularly would you have socialised with
12:26:55 26 him?---Possibly on a Friday.
12:26:58 27
12:26:58 28 After work on a Friday you'd go and have a drink?---Yep.
12:27:01 29 Not all the time but on the odd occasion.
12:27:05 30
12:27:05 31 What, at pubs, in the vicinity of your workplace, the Drug
12:27:09 32 Squad?---Yes.
12:27:10 33
12:27:10 34 The Emerald Hotel?---I'm not sure. Which one is the
12:27:15 35 Emerald?
12:27:15 36
12:27:16 37 I'm sorry?---I'm not sure which one is the Emerald Hotel.
12:27:20 38
12:27:21 39 Is it something that you would do every second week or with
12:27:26 40 what degree of regularity?---Yeah, probably changed over
12:27:29 41 the period, could have been every Friday night for a while,
12:27:33 42 might have been a month where we didn't.
12:27:36 43
12:27:36 44 All right then. Can I ask you about, I want to briefly
12:27:42 45 touch upon Operation Gallop. That was the operation that
12:27:46 46 was involving Azzam Ahmed and the house at Dublin Street in
12:27:57 47 Oakleigh, you know about that?---Yes.

12:27:59 1
12:28:00 2 And obviously that was the operation that resulted in your
12:28:04 3 arrest on Grand Final night in 2003, correct?---Yes.
12:28:09 4
12:28:11 5 And as a result of that you were hospitalised for a number
12:28:14 6 of days, about five days, would that be fair?---That's
12:28:18 7 correct.
12:28:18 8
12:28:21 9 After you were hospitalised you obviously got out but were
12:28:26 10 you then suspended from duties as a member of the Police
12:28:29 11 Force?---That's correct.
12:28:29 12
12:28:30 13 And after you were suspended subsequently you were charged
12:28:36 14 in December, 5 December 2003, correct?---That's correct.
12:28:43 15
12:28:44 16 And you never resumed your duties as a police officer after
12:28:49 17 that night in any event, correct?---That's correct.
12:28:51 18
12:28:53 19 In the period between your arrest and 5 December when you
12:29:01 20 were arrested, do you recall having communications with
12:29:05 21 Paul Dale?---On the night I made a phone call to him.
12:29:12 22
12:29:13 23 Yes?---Um, and I don't believe I had communications or I
12:29:19 24 met him after that.
12:29:20 25
12:29:20 26 After that?---To the 5th, no.
12:29:22 27
12:29:22 28 You don't believe you did?---No.
12:29:24 29
12:29:25 30 Do you recall at any stage having a meeting or a meeting
12:29:32 31 being arranged for you to meet with Paul Dale and Terry
12:29:36 32 Hodson?---We met Terry Hodson numerous occasions.
12:29:45 33
12:29:45 34 I'm talking about that same period of time, after your
12:29:47 35 arrest and prior to - your arrest on the night and prior to
12:29:54 36 you being charged on 5 December?---Definitely not.
12:29:58 37
12:29:58 38 Sorry?---Definitely not.
12:29:59 39
12:29:59 40 Definitely not, okay. So what you say is there were no
12:30:03 41 discussions between you and Dale between 27 September and 5
12:30:10 42 December, the day on which you were charged?---No.
12:30:12 43
12:30:20 44 And you had no discussions with Nicola Gobbo in that same
12:30:24 45 period, is that correct?---That's correct.
12:30:26 46
12:30:27 47 Do you say that you've had any discussions with Nicola

12:30:30 1 Gobbo subsequent to being arrested on 27 September?---Only
12:30:40 2 as cross-examination in regard to that one case, that would
12:30:43 3 have been it.
12:30:44 4
12:30:44 5 Which case was that?---The Tony Mokbel case.
12:30:47 6
12:30:47 7 That was subsequent to it, was it?---Yeah, it was a number
12:30:50 8 of years later.
12:30:51 9
12:30:52 10 At that stage you were a suspended police officer, is that
12:30:55 11 right?---That's correct.
12:30:55 12
12:30:55 13 And that's prior to your trial and incarceration?---That's
12:30:59 14 correct.
12:30:59 15
12:31:09 16 Perhaps what I might do, Commissioner, is tender that, the
12:31:13 17 documents that I've asked Mr Miechel to look at, the one
12:31:16 18 that was on the screen, the OPP Prism report.
12:31:22 19
12:31:22 20
12:31:22 21 #EXHIBIT RC150 - Extract from OPP Prism report.
12:31:30 22
12:31:31 23 I'll tender also the entry in Mr Miechel's diary of 21 May
12:31:36 24 2003. Day book, I'm sorry.
12:31:41 25
12:31:41 26
12:31:42 27 #EXHIBIT RC151 - Extract from Mr Miechel's day book dated
12:31:51 28 21/05/03.
12:31:56 29
12:31:57 30 MR HOLT: Commissioner, with respect to Exhibit 150, the
12:32:00 31 Prism report, there is no issue with that. Exhibit 151,
12:32:06 32 I'd be grateful if we could look at it quickly and we
12:32:09 33 should be able to deal with it today.
12:32:11 34
12:32:11 35 MR WINNEKE: No objection to that, Commissioner. If you
12:32:39 36 can go to the back of that book, that day book. Do you see
12:32:46 37 whether there's a mobile telephone number of
12:32:52 38 Ms Gobbo?---Yes, that's correct.
12:32:52 39
12:32:53 40 Is that amongst a number of other telephone details or is
12:33:00 41 it - perhaps you can just hold it up and show us?---It
12:33:05 42 looks like it's in amongst two other barristers,
12:33:09 43 Mr Hargreaves and Mr Bernie Balmer.
12:33:11 44
12:33:13 45 Mr Balmer and Mr Hargreaves and Ms Gobbo's number. Also in
12:33:15 46 this book here there appears to be a number of telephone
12:33:18 47 numbers of people who you communicate with, one of whom is

12:33:24 1 Ms Gobbo, Mr Balmer, Mr Hargreaves and a Paul
12:33:30 2 Duggan?---That's correct.
12:33:30 3
12:33:31 4 Were they legal practitioners with whom you would on
12:33:35 5 occasions speak, is that right?---Yeah, obviously I've got
12:33:40 6 their phone number during a case or something where I had
12:33:43 7 to ring them back.
12:33:45 8
12:33:45 9 If you can just have a look at that, if I can pass that up
12:33:50 10 to you. Do you see that there? It seems you have printed
12:33:56 11 it out and stuck it in your notebook there, some telephone
12:34:01 12 numbers of a number of people?---Yes.
12:34:03 13
12:34:03 14 I would assume you've dealt with more lawyers and
12:34:07 15 barristers than simply those people who are listed in the
12:34:11 16 book there?---I certainly have, yes.
12:34:12 17
12:34:13 18 Would it be fair to say that they were people with whom you
12:34:17 19 dealt more frequently than others?---I'd say I had a case
12:34:23 20 with certain defendants relating to them.
12:34:28 21
12:34:28 22 If you had a case in which those people were involved,
12:34:32 23 you'd record their details and telephone numbers in your
12:34:36 24 notebook or your diary?---That's correct.
12:34:38 25
12:34:38 26 And that would simply be to enable you to communicate with
12:34:42 27 them in your role as an informant, is that right?---That's
12:34:45 28 correct.
12:34:45 29
12:35:26 30 I'd like you to have a look at another diary that you've
12:35:31 31 got.
12:35:31 32
12:35:31 33 COMMISSIONER: Did you want to tender those extracts?
12:35:34 34
12:35:34 35 MR WINNEKE: I'll tender those extracts, Commissioner, the
12:35:37 36 ones I have asked the witness about. I just want to ask
12:35:41 37 the witness about another matter. In order for us to do it
12:35:45 38 we might need to - - -
12:35:50 39
12:35:50 40 COMMISSIONER: Is this from the same document? What you're
12:35:53 41 working on now, is this from the same document or a
12:35:56 42 different document?
12:35:57 43
12:35:57 44 MR WINNEKE: This is a different document, Commissioner.
12:35:59 45
12:36:05 46 COMMISSIONER: Are they extracts from the day book, was it,
12:36:06 47 or diary?

12:36:06 1
12:36:07 2 MR WINNEKE: Can you tell the Commissioner what that little
12:36:10 3 red book is, is that a note book of some sort?---They're
12:36:12 4 both day books.
12:36:14 5
12:36:15 6 Both day books. They are two entries from Mr Miechel's day
12:36:19 7 books.
12:36:19 8
12:36:21 9 #EXHIBIT RC152 - Entries from day books with Nicola Gobbo's
12:36:26 10 telephone number.
12:36:29 11
12:36:30 12 MR HOLT: Again, Commissioner, I don't anticipate in the
12:36:32 13 way they've been described there'll be problems but if we
12:36:35 14 could simply have the opportunity to review those and we'll
12:36:38 15 do that quite quickly.
16
12:36:56 17 COMMISSIONER: Yes.
18
12:36:56 19 WITNESS: Can I just add in regards, I'm not sure whether
12:36:59 20 they're going to be put out there for the public or
12:37:02 21 whatever, but there's a number of numbers there that people
12:37:05 22 wouldn't want in the public records, a number of police
12:37:07 23 officers.
24
12:37:08 25 COMMISSIONER: That's why Mr Holt for Victoria Police has
12:37:12 26 said he wants to review them for PII so that only the
12:37:16 27 relevant numbers become public information.
28
12:37:27 29 MR WINNEKE: Can you just have a look at this book and also
12:37:31 30 have a look at what's written on the yellow Post-It Notes
12:37:35 31 there. Now, have a look at what's on the Post-it Note and
12:37:44 32 in particular the name but don't say the name and we'll
12:37:48 33 call that person, Person 2, do you follow that?---Yes.
12:37:52 34
12:37:53 35 If you have a look at that blue page in your diary, that's
12:37:58 36 your official police diary, is that correct?---Yes, that's
12:38:06 37 correct.
38
12:38:07 39 If you have a look - firstly, can you tell the Commission
12:38:10 40 what that blue page is, what that shows?---It's just
12:38:15 41 detailing a quick summary of brief details of people that
12:38:21 42 I've charged.
12:38:23 43
12:38:23 44 All right then. One of those names is Person 2, do you see
12:38:29 45 that? And there are related ones underneath. You don't
12:38:38 46 need to say anything about them at this stage but if you
12:38:43 47 have a look at around 18 November 1997, do you see

12:38:48 1 that?---That's correct.
12:38:49 2
12:38:52 3 Insofar as Person 2, are you able to remember, and again
12:38:57 4 without saying, giving any details about it, are you able
12:39:00 5 to remember as you're sitting there now what your
12:39:03 6 involvement was in that matter? Do you have a
12:39:08 7 recollection?---No.
12:39:15 8
12:39:15 9 What about any of the related matters which appear to be
12:39:22 10 around that matter?---If you're referring to the name
12:39:34 11 underneath it, which is on the same date, or there's three
12:39:37 12 names on the same date.
12:39:39 13
12:39:39 14 Do you have any recollection of those matters and in
12:39:43 15 particular whether the solicitor whose name is on another
12:39:47 16 of the Post-It Notes, Solicitor 1, was the solicitor who
12:39:52 17 represented those people?---Yeah, I don't recall. But also
12:39:56 18 on that last column it nominates whether I'm informant or
12:40:00 19 corroborator and I was only corroborating those cases.
12:40:03 20
12:40:03 21 You were corroborating both cases?---I wasn't informant in
12:40:06 22 those but I had something to do with where they most likely
12:40:10 23 wanted a statement in relation to what I'd done.
12:40:13 24
12:40:17 25 Do you have a recollection of the name of the operation,
12:40:20 26 Operation Carron?---No.
12:40:26 27
12:40:26 28 Do you have a recollection of whether Ms Gobbo was involved
12:40:30 29 in representing any of those people?---No.
12:40:33 30
12:40:37 31 What about Mr Bowden, was he your Senior Sergeant at that
12:40:40 32 stage?---Back in 97, yes.
12:40:43 33
12:40:43 34 Yes. What you say is sitting there at the moment you don't
12:40:48 35 have any recollection of those matters?---No, I can't
12:40:53 36 remember the specific case.
12:40:54 37
12:41:00 38 I take it at that stage you were in the Drug Squad, is that
12:41:04 39 right?---That's correct.
12:41:05 40
12:41:09 41 Just excuse me. I take it you were aware of Solicitor 1,
12:41:20 42 is that right?---Yes.
12:41:22 43
12:41:23 44 He had represented people who either you or your colleagues
12:41:27 45 had charged?---That's correct.
12:41:29 46
12:41:30 47 Were you involved in an operation called Operation

12:41:38 1 Phalanx?---I don't recall the name.
12:41:40 2
12:41:43 3 That was an operation which the target was a person by the
12:41:46 4 name of Higgs, John Higgs?---Yeah, I'm not sure whether
12:41:56 5 that was before my time or not.
12:41:58 6
12:41:58 7 Do you recall what date - if you look at that diary are you
12:42:02 8 able to say to the Commission when it was you came to the
12:42:06 9 Drug Squad?---Yeah, the 26th of May 97.
12:42:23 10
12:42:23 11 97, okay. In 97 and 98 I take it you were aware that
12:42:30 12 Solicitor 1 represented a number of people who the Drug
12:42:34 13 Squad charged?---That's correct.
12:42:35 14
12:42:36 15 Do you recall at any stage working with Mr Strawhorn on
12:42:41 16 matters in which Solicitor 1 represented people?---No
12:42:50 17 doubt. I believe I was informant when he represented one
12:42:55 18 of the informants.
12:42:57 19
12:42:58 20 You were the informant when he represented one of the - -
12:43:03 21 -?---That's correct.
12:43:03 22
12:43:03 23 Sorry, one of the which people?---I don't recall his name
12:43:10 24 but - - -
12:43:14 25
12:43:14 26 Perhaps you best not say his name but are you able to write
12:43:23 27 down - do you remember the name of the person - without
12:43:28 28 saying it, do you remember the name of the person that he
12:43:31 29 represented?---No, not at this stage.
12:43:35 30
12:43:40 31 Do you remember any or are you aware of any of your
12:43:44 32 colleagues speaking to a lawyer with a view to having that
12:43:51 33 person provide information to the Drug Squad?---No.
12:43:55 34
12:44:02 35 The statement that you made, the short statement you've
12:44:05 36 made, I take it that's been made without the benefit of
12:44:08 37 your diaries and day books, is that correct?---That's
12:44:13 38 correct.
12:44:13 39
12:44:14 40 Have you seen those diaries and day books in recent
12:44:17 41 times?---No.
12:44:17 42
12:44:23 43 MR HOLT: Commissioner, in the same way we did with
12:44:26 44 Mr Strawhorn, I'm instructed we can facilitate the viewing
12:44:30 45 of the original diaries and day books by the witness if
12:44:36 46 that is required by the Commission or requested by the
12:44:37 47 witness.

12:44:37 1
12:44:38 2 MR WINNEKE: Are you in a position to, can you undertake,
12:44:42 3 if shown those diaries, to examine them with a view to
12:44:45 4 providing any further information to the
12:44:48 5 Commission?---That's correct. That person that I charged
12:44:50 6 is on the 6th of August 99.
12:44:54 7
12:44:55 8 If you can just show - perhaps hand that back?---There's
12:45:01 9 three on that date, and it's the middle bloke, he was - he
12:45:06 10 represented that person.
12:45:06 11
12:45:07 12 6 August 99, is that right?---That's correct.
12:45:09 13
12:45:23 14 Is what you say that that person was an informer?---No, no.
12:45:29 15 That person I charged and Person 1 represented him.
12:45:32 16
12:45:33 17 Solicitor 1 represented him?---Yes.
12:45:35 18
12:45:35 19 Right, okay?---That's the only dealing I've had with that
12:45:39 20 particular person.
12:45:40 21
12:45:40 22 That particular solicitor?---Yes.
12:45:43 23
12:45:43 24 Okay?---But he's been involved in many cases over the years
12:45:47 25 but not as, not directly relating to me as informant.
12:45:51 26
12:45:51 27 All right. Are you aware of any of your colleagues running
12:45:57 28 an operation or trying to get information about Solicitor 1
12:46:01 29 when you were at the Drug Squad?---Yeah, there could have
12:46:10 30 been.
12:46:10 31
12:46:11 32 Are you able to tell the Commission which
12:46:16 33 colleagues?---I've got no idea. I can just remember the
12:46:20 34 talk around that, that solicitor and the fact that, um, he
12:46:25 35 was dealing with a number of criminals and he probably
12:46:28 36 wasn't acting in a professional manner in relation to them.
12:46:32 37
12:46:32 38 Your recollection is that there was a view within the Drug
12:46:36 39 Squad that he was perhaps too close to his clients, is that
12:46:40 40 what you're saying?---Too close or, yeah, I'm not too sure.
12:46:45 41
12:46:45 42 Do you know whether there was any attempts to get
12:46:48 43 information to enable him to be prosecuted?---No, I'm not
12:46:53 44 aware of that.
12:46:54 45
12:46:55 46 All right okay. Yes I have nothing further.
12:46:57 47

12:46:57 1 COMMISSIONER: Yes. Were you, are you able to assist us as
12:47:01 2 to whether at the time the Dublin Street premises were
12:47:06 3 burgled or around about that time, before or after it,
12:47:10 4 whether Nicola Gobbo knew anything about them, about the
12:47:14 5 Dublin Street premises and the fact that they were a drug
12:47:18 6 house?---Not that I was aware of.

12:47:20 7
12:47:20 8 Mokbel interests?---Um, look I've read that plenty of times
12:47:25 9 in papers about Mokbel being involved in it and Mokbel's
12:47:28 10 drugs and all the rest of it. We investigated that house
12:47:31 11 for four or five months and his name never came up and I'm
12:47:34 12 pretty sure it would have. There would have been a
12:47:37 13 connection or something pointing that way and it never came
12:47:40 14 up in any part of that investigation, he was connected in
12:47:45 15 any way.

12:47:45 16
12:47:45 17 So you can't assist us with whether Nicola Gobbo was aware
12:47:49 18 of your investigation?---I wouldn't have thought so.

12:47:54 19
12:47:54 20 All right then. Yes Mr Nathwani.

12:47:58 21
22 <CROSS-EXAMINED BY MR NATHWANI:

23
12:47:58 24 Mr Miechel just a few questions about your statement to
12:48:01 25 begin with, please. When were you first asked to prepare
12:48:04 26 your statement?---Um, it was only last week.

12:48:10 27
12:48:10 28 Understood. And were you given any assistance with it or
12:48:14 29 was the statement literally your own work?---No, just my
12:48:17 30 own work.

12:48:18 31
12:48:18 32 As you've told us you didn't have access to a number of
12:48:22 33 documents. You say, and you've obviously had some time to
12:48:27 34 think about this, this is the second main paragraph, "On
12:48:31 35 all these occasions these conversations were in the
12:48:34 36 presence of other people within the court system. I've
12:48:37 37 never met her", that's Ms Gobbo, "Alone or outside the
12:48:40 38 courts. The conversation I did have appeared to be in
12:48:43 39 accordance with a barrister acting professionally for her
12:48:47 40 clients". Do you stand by that?---Yes, I do.

12:48:49 41
12:48:49 42 Okay. I'm now going to ask you some questions relating to
12:48:55 43 your conviction and it's not to make you uncomfortable from
12:48:59 44 any point of view, it's to save you having to come back
12:49:03 45 because there are other witnesses coming where some of the
12:49:04 46 material may be relevant, okay. Is it right to say at the
12:49:10 47 time of the burglary that you were professionally close

12:49:17 1 with Paul Dale?---That's correct.
12:49:19 2
12:49:20 3 Also a good friend?---Yes.
12:49:22 4
12:49:26 5 You ultimately, as we know, received a prison sentence and
12:49:31 6 were released last year, I think June last year?---That's
12:49:35 7 correct.
12:49:35 8
12:49:35 9 It's right, or you tell us, have you kept in contact with
12:49:38 10 Mr Dale during that time?---No.
12:49:40 11
12:49:41 12 When was the last time you spoke to Mr Dale?---I don't
12:49:45 13 recall but would be 14, 15 years ago.
12:49:51 14
12:49:52 15 How about when you received the notice to attend this
12:49:55 16 Commission, have you had any communication at all with
12:49:59 17 Mr Dale?---No.
12:49:59 18
12:50:01 19 Have you had access or seen his witness statement at
12:50:03 20 all?---No.
12:50:04 21
12:50:13 22 Was Mr Dale involved in setting up the burglary of those
12:50:19 23 premises?---No.
12:50:20 24
12:50:27 25 I'm focusing on Mr Dale so please bear with me. As I
12:50:33 26 understand what occurred during the burglary, because it
12:50:40 27 was a long weekend, it's right, isn't it, that you
12:50:44 28 volunteered to change surveillance tapes at a nearby
12:50:46 29 home?---That's correct.
12:50:47 30
12:50:47 31 On the morning of changing those tapes you travelled via
12:50:54 32 Mr Dale's home, is that right?---I could have, I - - -
12:51:02 33
12:51:03 34 To be fair to you, I'm reading this from Court of Appeal
12:51:06 35 judgments at your appeal against sentence and also from the
12:51:09 36 Coroner's Court, and in addition there's also an OPI
12:51:15 37 document in relation to what occurred that are all in the
12:51:18 38 public arena. Prior to the burglary you were obviously
12:51:26 39 with Mr Dale responsible for handling Terry
12:51:31 40 Hodson?---That's correct.
12:51:31 41
12:51:34 42 Did anyone ever say to you, be it Mr Dale or your
12:51:38 43 superiors, that your relationship with Mr Hodson was too
12:51:41 44 close?---No.
12:51:43 45
12:51:43 46 Did Mr Dale express to you directly that he thought your
12:51:47 47 relationship was too close?---Not that I recall.

12:51:50 1
12:51:50 2 Would it surprise you if Mr Dale had ever given evidence in
12:51:54 3 line with that, saying that he was concerned that your
12:51:56 4 relationship with the Hodsons, including Mandy Hodson, was
12:52:01 5 too close?---Does it surprise me? No.
12:52:04 6
12:52:04 7 Did he in fact ever discuss concerns with you?---Not that I
12:52:13 8 recall but we had numerous discussions, hours and hours,
12:52:18 9 days and days and over a period of a year.
12:52:21 10
12:52:21 11 And just to be clear, over those numerous discussions as
12:52:24 12 friends as you were back then, as far as you're aware he
12:52:28 13 never indicated he'd been socialising with Nicola
12:52:31 14 Gobbo?---No.
12:52:31 15
12:52:41 16 When the incident obviously occurred you were apprehended
12:52:47 17 close to the scene and bitten several times by a police
12:52:53 18 dog?---That's correct.
12:52:54 19
12:52:54 20 You were to be taken to hospital and you borrowed a
12:52:58 21 paramedic's phone. Who did you call?---Paul Dale.
12:53:03 22
12:53:03 23 Why did you do that?---Because of the incident that had
12:53:06 24 occurred and I needed to contact someone and inform them
12:53:11 25 about it.
12:53:12 26
12:53:12 27 What did you say to him, do you remember?---I don't
12:53:15 28 remember the direct conversation, no.
12:53:17 29
12:53:18 30 One of the issues in this Commission is the management of
12:53:23 31 informers and their records and the like. You are aware,
12:53:27 32 aren't you, that soon after the phone call is how it's
12:53:30 33 reported by the courts that Mr Dale attended your office in
12:53:40 34 effect and took the blue file, you know what I'm talking
12:53:42 35 about when I'm talking about the blue file?---I know what
12:53:45 36 you're referring to, I don't know why it's called the blue
12:53:48 37 file or whatever, but I'm not aware that Paul attended the
12:53:53 38 office.
12:53:53 39
12:53:53 40 The suggestion is that he attended the office on two
12:53:56 41 occasions over that weekend when the burglary
12:53:59 42 occurred?---I'm not aware of where he attended over that
12:54:01 43 weekend.
12:54:02 44
12:54:05 45 Are you aware if Mr Dale had any involvement with the
12:54:08 46 removal of that file?---No.
12:54:09 47

12:54:16 1 You were released on bail almost immediately, as was Terry
12:54:21 2 Hodson, do you agree with that? I know you were in
12:54:25 3 hospital for a period of time but you were bailed in
12:54:29 4 September 2003?---I wasn't bailed, I wasn't charged.
12:54:35 5
12:54:35 6 Okay. So you were released. Did you have any contact
12:54:39 7 between that date and your charge in December with
12:54:44 8 Mr Dale?---Released from hospital? I don't believe so, no.
12:54:54 9
12:55:11 10 You were aware that some of the evidence against you
12:55:14 11 involved providing a card, a Scar Face card back to Mandy
12:55:19 12 Hodson to give back to her father, do you accept that
12:55:21 13 evidence?---That was presented in court that way, yes.
12:55:24 14
12:55:26 15 Did Mr Dale have any involvement with the presentation of
12:55:29 16 that card back to Terry Hodson?---I've got no idea what
12:55:33 17 card. There was a suggestion in court there was a card but
12:55:37 18 I've got no - there was no card in relation to me and I
12:55:43 19 have no recollection whether all of that - - -
12:55:45 20
12:55:46 21 As I understand the sequence it's that you were bought a
12:55:49 22 card by Terry Hodson, it had Scar Face the movie quote on
12:55:53 23 it which was given to you and then in November of 2003 you
12:55:58 24 returned it back to Mandy Hodson. Just pausing there. Do
12:56:02 25 you accept receiving a card of that type ever from Terry
12:56:04 26 Hodson?---I don't recall.
12:56:05 27
12:56:06 28 Have a think?---No.
12:56:10 29
12:56:10 30 No, you didn't receive it?---No.
12:56:12 31
12:56:14 32 Just to be fair to you, rather than putting all these
12:56:17 33 things to you, am I right in saying from the tenor of your
12:56:20 34 evidence you do not accept that you were guilty of that
12:56:23 35 burglary?---That's correct.
12:56:23 36
12:56:35 37 You obviously received the interview and/or statement of
12:56:40 38 Terry Hodson implicating both you and Paul Dale in the
12:56:44 39 burglary of those premises?---I did.
12:56:47 40
12:56:51 41 Did you ever discuss the contents of it with Mr Dale?---No.
12:56:56 42
12:57:00 43 You're very certain about that. If I'm right from your
12:57:03 44 evidence, is it that soon after the burglary you ceased
12:57:07 45 contact all together with your close working partner and
12:57:11 46 friend?---That's correct, that was part of the conditions.
12:57:14 47

12:57:15 1 I understand it was part of the conditions. You're saying
12:57:17 2 at no time did you want to discuss with your friend, even
12:57:20 3 if it's at court, anything about the case?---No doubt I
12:57:27 4 think there was a couple of court cases along the way where
12:57:30 5 we were sitting within the court and no doubt we spoke
12:57:34 6 about certain statements or certain - something in relation
12:57:36 7 to the brief there, I've got no doubt that we probably
12:57:42 8 discussed that. There would have been discussions between
12:57:46 9 the solicitors. I would have believed my solicitor would
12:57:51 10 have spoke to his solicitors in relation to the case.

12:57:54 11
12:57:56 12 Can leave alone that, those proceedings and just ask you
12:58:03 13 then more generally about Terrence Hodson. His informer
12:58:09 14 number as we know was changed and your recollection it was
12:58:16 15 because of an incident Ms Gobbo had recalled or figured out
12:58:20 16 who he was?---That's correct.

12:58:21 17
12:58:22 18 You're sure that's right, you say that's the trigger to
12:58:25 19 change?---After that incident I went back to the station
12:58:28 20 and I did a report about what had occurred on that day and
12:58:33 21 also the fact that this circumstance couldn't happen again
12:58:37 22 in relation to Hodson because he was still giving
12:58:41 23 information, there were still other people to be charged,
12:58:43 24 but in relation to any other informant that would come
12:58:46 25 along, that they couldn't have the same number and remain
12:58:49 26 with that same number and I suggested that after each
12:58:54 27 particular investigation they do, they get their number
12:58:57 28 changed so if the same solicitor happened to represent two
12:59:00 29 different clients that he was involved with, there wouldn't
12:59:03 30 be a match up and that's what occurred in the informer
12:59:07 31 management system. Due to that report informers were to
12:59:11 32 get their code number changed and his got changed pretty
12:59:18 33 well straight after that.

12:59:19 34
12:59:22 35 Do you accept that in fact because Mr Hodson was being used
12:59:27 36 in a large number of operations, that there was a belief it
12:59:32 37 was common knowledge full stop that he was providing
12:59:35 38 assistance to the police?---No, I don't.

12:59:38 39
12:59:38 40 You don't accept that?---If it was common - that's a
12:59:44 41 ridiculous statement. If it was common knowledge he
12:59:48 42 wouldn't have been allowed to live under those
12:59:51 43 circumstances and continue to - and if it was common
12:59:54 44 knowledge he wouldn't have been able to set up further
12:59:57 45 cases which he did one after another. If it was common
13:00:01 46 knowledge out in the street that was the case no one would
13:00:04 47 deal with him, no one would deal drugs with him.

13:00:08 1
13:00:09 2 Now obviously Terry Hodson and that fact, because you're
13:00:12 3 being asked about Ms Gobbo, is fairly important
13:00:13 4 information, do you agree, the further material you've been
13:00:16 5 asked to consider?---Yes.
13:00:17 6
13:00:17 7 Any reason it's not in your statement?---Not in my
13:00:22 8 statement in relation to what?
13:00:23 9
13:00:24 10 Have a look at your statement?---Yes.
13:00:25 11
13:00:25 12 It's not there?---In relation to what?
13:00:28 13
13:00:29 14 You're being asked about all your contact with Ms Gobbo.
13:00:33 15 You recall four occasions, not one of them says "There was
13:00:36 16 one occasion where in fact she came up to me, De Santo was
13:00:40 17 present, and said I've worked out who the person is, it's
13:00:44 18 Hodson"?---That's one of the occasions with Pidoto, two
13:00:48 19 times whilst I was representing a defendant named Shane
13:00:50 20 Pidoto.
13:00:51 21
13:00:51 22 Why don't you go on and say? Because in the others you do,
13:00:55 23 you see, look at the next one, it says, "Another occasion",
13:00:59 24 second love heart, "I attended a sentence hearing for a
25 defendant whose name I can't remember. Gobbo asked me a
13:01:02 26 couple of questions in relation to her client to confirm he
13:01:06 27 didn't have a known history of prolonged drug
13:01:09 28 trafficking"?---That's correct.
13:01:10 29
13:01:10 30 Obviously Terry Hodson is someone who I imagine is front
13:01:12 31 and centre in your life. Is there any particular reason it
13:01:16 32 wasn't included there?---No.
13:01:18 33
13:01:18 34 Are you sure you haven't seen the statement of Paul
13:01:21 35 Dale?---No, I haven't seen no statement from Paul Dale.
13:01:26 36
13:01:26 37 All right, thank you.
13:01:28 38
13:01:29 39 COMMISSIONER: Mr Holt, will you be a little while?
13:01:31 40
13:01:32 41 MR HOLT: I'd expect about ten minutes, Commissioner,
13:01:33 42 depending. It won't be terribly long but it will take us
13:01:38 43 into lunch so I'm in the Commissioner's hands.
13:01:40 44
13:01:40 45 COMMISSIONER: Is there any other questioning? There won't
13:01:45 46 be much re-examination, Mr Winneke?
13:01:48 47

13:01:49 1 MR WINNEKE: Not much, Commissioner.
13:01:51 2
13:01:52 3 COMMISSIONER: Perhaps we should adjourn. We'll adjourn
13:01:56 4 until 2 o'clock.

13:02:19 5
13:02:19 6 LUNCHEON ADJOURNMENT.

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13:49:46 1 UPON RESUMING AT 2.00 PM:
14:02:25 2
14:02:26 3 COMMISSIONER: Yes Mr Holt.
4
5 <CROSS-EXAMINED BY MR HOLT:
6
14:02:28 7 Thank you, Commissioner. Mr Miechel, you were asked some
14:02:31 8 questions before lunch about when, if at all, you had
14:02:34 9 spoken to Mr Dale about these matters. By these matters I
14:02:37 10 mean in particular the burglary at Dublin Street, do you
14:02:41 11 recall those questions?---Yes.
14:02:42 12
14:02:43 13 Can I just try and tease that out a little bit. After the
14:02:47 14 night that you were arrested and went to hospital - you
14:02:51 15 went to hospital, that's right?---Yes.
14:02:53 16
14:02:53 17 And then you were released from hospital a short amount of
14:02:57 18 time later, a day or two later?---A week I think.
14:03:00 19
14:03:00 20 A week later. And then it wasn't for some period of time
14:03:03 21 that you were ultimately charged with the
14:03:06 22 burglary?---That's correct.
14:03:06 23
14:03:06 24 In that intervening period, that is the period between
14:03:11 25 being released from hospital and being charged with the
14:03:13 26 burglary, did you speak with Mr Dale about what had
14:03:16 27 occurred on that night?---No.
14:03:17 28
14:03:18 29 But on the night, as you confirmed before, you borrowed a
14:03:22 30 phone from the paramedic in the ambulance?---Yes.
14:03:26 31
14:03:27 32 Because presumably your phone had been taken by the police
14:03:30 33 officer who arrested you?---I didn't have a phone on me.
14:03:34 34
14:03:34 35 You didn't have a phone on you. I see. And then in
14:03:37 36 addition do you recall that Mr Dale visited you at the
14:03:40 37 hospital?---I believe he did. I'm not 100 per cent sure
14:03:47 38 but I think he did.
14:03:48 39
14:03:51 40 The answer to this question might be obvious but I'll ask
14:03:54 41 it anyway. When he visited you at hospital do you recall,
14:03:58 42 even if you need a moment to think about it, please do,
14:04:00 43 what you spoke with him about?---Yeah, I don't recall
14:04:04 44 specifics. It was more a welfare check.
14:04:08 45
14:04:08 46 All right. You've confirmed that after you were charged
14:04:13 47 you say that you didn't speak to Dale about the burglary or

14:04:17 1 the evidence or the allegations in respect of the burglary
14:04:20 2 because of your bail conditions, is that as I understand
14:04:22 3 it?---That's correct.
14:04:23 4
14:04:24 5 Other than at court on occasions?---That's correct.
14:04:26 6
14:04:27 7 And when you were at court on occasions I think you
14:04:29 8 confirmed that you did in fact speak about, as my note
14:04:33 9 indicated, statements or witnesses and the like?---I'm sure
14:04:36 10 we did. While we were sitting there if there was something
14:04:39 11 about the brief or something, yeah, relating to the charges
14:04:43 12 we would have. We were there for quite some time in court.
14:04:48 13
14:04:49 14 We'll come back to that in a moment. Can I deal with a
14:04:57 15 topic that you were asked question about by our learned
14:04:57 16 friend Mr Winneke, and that relates to this conversation
14:04:59 17 that you recall or a comment that you recall Ms Gobbo
14:05:00 18 making to you in court on one occasion where she indicated
14:05:03 19 to you that she was aware of the identity of Mr Hodson as
14:05:07 20 being your informer. You recall that conversation, that
14:05:10 21 line of questioning?---Yes.
14:05:11 22
14:05:11 23 As I understood your evidence what you said was as a
14:05:14 24 consequence of that conversation you were, firstly,
14:05:17 25 concerned?---Correct.
14:05:19 26
14:05:19 27 For obvious reasons, that is a core function of a person
14:05:24 28 who's dealing with an informer, a police officer who is
14:05:27 29 dealing with an informer, is to attempt as best as possible
14:05:30 30 to ensure that that informer is not identified?---That's
14:05:32 31 correct.
14:05:32 32
14:05:33 33 As a consequence of that conversation you say you then -
14:05:36 34 I'm sorry, you then made a report through your superiors at
14:05:40 35 the time or your superior officers at the time?---Yes.
14:05:42 36
14:05:43 37 That would have been, through what chain of command do you
14:05:46 38 recall that report proceeding?---It would have went all the
14:05:49 39 way up. Would have went through - - -
14:05:50 40
14:05:50 41 Immediately, through Dale first?---He would have been
14:05:58 42 present or around that thing but when you do a report like
14:06:02 43 that, and maybe he did the report, I can't remember, but
14:06:04 44 once a report's done it goes to the Senior Sergeant, then
14:06:07 45 to the Inspector and the Superintendent, it would have gone
14:06:12 46 right up through the whole lot of them.
14:06:15 47

1 And to assist us in seeing whether we can investigate that
14:06:16 2 issue further, as I've come to learn there are a number of
14:06:18 3 kind of pro forma forms and ways of communicating and so on
14:06:23 4 within Victoria Police processes, you'd be aware of
14:06:25 5 that?---Yes.

14:06:26 6
14:06:26 7 Can you assist us at all please with the nature of the
14:06:29 8 report, that is what kind of document it would be under,
14:06:31 9 would it have a number or a way of being described as in
14:06:34 10 the process of the form, do you understand what I
14:06:36 11 mean?---Yeah, I can't remember what the form number - it's
14:06:38 12 got a number reference that you do in relation to something
14:06:41 13 you're going to put up through to the hierarchy.

14:06:44 14
14:06:44 15 Does that have any name that you might be able to help me
14:06:47 16 with, like an "up through the hierarchy" form? I'm sure
14:06:51 17 it's not that but you know what I mean, something that its
14:06:51 18 referred to as?---Something like Form 40 or Form 44, or
14:06:55 19 something similar to that. It has the police letterhead on
14:06:58 20 the top it.

14:06:59 21
14:06:59 22 Thank you very much. Again, just for that purpose if I can
14:07:01 23 see whether we can understand the date a little better.
14:07:04 24 Your recollection, as I understand your evidence, is that
14:07:06 25 the informer number change for Mr Hodson was, as best as
14:07:12 26 you can recall it, a consequence of the report which in
14:07:15 27 turn followed from the conversation with Ms Gobbo?---That's
14:07:20 28 correct.

14:07:20 29
14:07:21 30 Again, I know it's a really long time ago, but if I assist
14:07:25 31 you in this way: it appears as a matter of public record
14:07:28 32 that the date of that informer number change was in or
14:07:31 33 about December of 2002. Would it follow then from your
14:07:37 34 perspective that the conversation with Ms Gobbo must have
14:07:39 35 preceded December 2002, or at least the date in December
14:07:43 36 2002 when the informer number changed?---Presumably, yeah.

14:07:48 37
14:07:48 38 Could we have a look please at Exhibit 150, which is the
14:07:53 39 Prism entries, Commissioner. Because I think you had
14:07:57 40 suggested, and again it's not a memory test, Mr Michel, I
14:08:00 41 well understand you're talking about matters a long time
14:08:03 42 ago, but I think you had suggested that it might have been
14:08:06 43 one of the Pidoto entries and all of those - those appear
14:08:16 44 to span that period I'm talking about, so from 1 November
14:08:19 45 through until 11 December 2003 on that first page. Knowing
14:08:28 46 that the - I'm sorry, 2003. May we take it that it must be
14:08:33 47 one of the first three if his informer number changed in

14:08:38 1 December of 2002, do you think?---Yeah, I'm not sure when
14:08:47 2 the informer thing changed but I know for certain it was
14:08:50 3 certainly preceding it because no registered informers ever
14:08:54 4 got their numbers changed prior to that, prior to me
14:08:56 5 putting that report in.

14:08:57 6
14:08:58 7 In terms of attempting to get to the bottom of this report
14:09:02 8 if we can to assist the Commission, if, and I'm asking you
14:09:04 9 to accept it for present purposes, if it turns out that the
14:09:06 10 informer number was changed in December of 2002, we should
14:09:09 11 obviously be looking at a date range before then?---That's
14:09:13 12 correct.

14:09:13 13
14:09:13 14 Thank you very much. That's of help, thank you. Moving
14:09:17 15 then to your time at MDID. You had been there, that is at
14:09:23 16 MDID, before Mr Dale was transferred into that unit?---Yes.

14:09:27 17
14:09:28 18 It was put to you, and I think you didn't recall precisely,
14:09:34 19 but does it sound about right that Mr Dale transferred in
14:09:39 20 or about June of 2002?---That sounds about right.

14:09:41 21
14:09:42 22 You and he started working together immediately as I
14:09:44 23 understand it?---Yeah, we were on the same crew.

14:09:47 24
14:09:48 25 One of the things that he did very quickly was to become
14:09:52 26 directly involved with you in the handling of Terry Hodson
14:09:56 27 as an informer?---Well he had to.

14:09:58 28
14:09:59 29 But it's right that he did, right, he was very quickly
14:10:02 30 involved with you essentially as a co-handler of Terry
14:10:08 31 Hodson within a matter of a couple of weeks?---You use the
14:10:09 32 word quickly like as if he jumped into it and he made it go
14:10:14 33 quicker than normal, but due to the fact that he was my
14:10:17 34 Sergeant he had to be a handler because we both would go
14:10:22 35 meet Terry Hodson together. Everyone on that crew became a
14:10:25 36 handler.

14:10:25 37
14:10:25 38 I'm sorry, if I gave the impression that the speed was, I
14:10:28 39 was saying that as if it indicated impropriety, I don't
14:10:30 40 mean that at all. I'm simply trying to establish that it
14:10:34 41 was pretty quick after Mr Dale starts in the squad and
14:10:38 42 comes on to your crew in effect the he becomes someone
14:10:40 43 who's directly involved, that is meeting Terry Hodson in a
14:10:43 44 sort of a co-handler or handler kind of a role with
14:10:47 45 you?---Yeah, well we were meeting with him on a weekly
14:10:49 46 basis. So he basically had to put the forms in and make
14:10:55 47 himself a handler straight away.

14:10:55 1
2 And that happened, right?---Yes.
3
14:10:56 4 And again I'm not saying there's anything wrong with that,
14:10:59 5 but that's what happened?---M'mm.
14:11:00 6
14:11:01 7 So from not long after June of 2002 Mr Dale is heavily
14:11:06 8 involved regularly meeting with Terry Hodson with
14:11:10 9 you?---That's correct.
14:11:10 10
14:11:11 11 You said all of the people in the crew had to kind of
14:11:15 12 become handlers, but was it you and Mr Dale predominantly
14:11:20 13 who were performing that contact role with Mr Hodson over
14:11:23 14 that period?---That's correct.
14:11:24 15
14:11:24 16 Anyone else, or was it just the two of you?---From time to
14:11:27 17 time other people would come along if one of us wasn't
14:11:30 18 available.
14:11:31 19
14:11:31 20 But predominantly if you were available it was you,
14:11:35 21 right?---Yes.
14:11:36 22
14:11:36 23 You and Mr Dale?---Yes.
14:11:37 24
14:11:37 25 If we can then just rewind a moment to my earlier
14:11:42 26 questions. What's clear then, isn't it, is that Mr Dale
14:11:45 27 comes on board and becomes with you in effect the primary
14:11:49 28 co-handler of Mr Hodson?---That's correct.
14:11:51 29
14:11:52 30 Putting Mr Hodson to one side for a moment. Can I ask you
14:11:56 31 some questions about a person called Carl Williams.
14:11:59 32 Obviously you know who that is?---Yes.
14:12:00 33
14:12:01 34 In the period between June of 2002, when Mr Dale commences
14:12:06 35 working at MDID as part of the crew with you, and the
14:12:13 36 burglary at Dublin Street in May of 2003, did you and
14:12:20 37 Mr Dale together meet with Mr Williams on any
14:12:23 38 occasions?---Yes, we did.
14:12:24 39
14:12:24 40 Would that have been about 12 occasions?---Twelve
14:12:28 41 occasions?
14:12:28 42
14:12:28 43 That's what I'm suggesting to you?---No.
14:12:30 44
14:12:30 45 Would that have been about 12 occasions?---No, once or
14:12:33 46 twice.
14:12:33 47

14:12:34 1 Once or twice. When you met with him, that is Mr Williams
14:12:37 2 in the company of Mr Dale, would you complete what we've
14:12:39 3 come to know as an information report?---One would have
14:12:42 4 been put in, yes.
14:12:43 5
14:12:43 6 I didn't ask that. Would you complete a document which
14:12:48 7 we've come to know as an information report?---I don't
14:12:51 8 remember completing any report. Maybe I did but I thought
14:12:54 9 Paul would have done that.
14:12:55 10
14:12:55 11 I see. You were aware of who Carl Williams was,
14:12:59 12 right?---Yes.
14:12:59 13
14:13:00 14 You and Mr Dale, you say, were meeting with Carl Williams
14:13:03 15 just on one or two occasions?---That's correct.
14:13:05 16
14:13:05 17 And who was, of you and Mr Dale, was the person responsible
14:13:09 18 for organising those meetings with Carl Williams, or if it
14:13:13 19 was someone else tell me?---It was Paul.
14:13:16 20
14:13:17 21 Paul. Paul was making arrangements to meet with Carl
14:13:20 22 Williams. Were you aware if, as you say, you were only at
14:13:24 23 one or two of those meetings, were you aware that Mr Dale
14:13:27 24 was otherwise meeting with Mr Williams?---No.
14:13:29 25
14:13:32 26 So it's just not something he ever told you if it was
14:13:35 27 occurring?---No.
14:13:36 28
14:13:38 29 In terms of the preparation of information reports
14:13:40 30 following meetings with Carl Williams, may I take it that
14:13:44 31 your expectation would have been that where a meeting of
14:13:49 32 that kind happens the police officer or officers involved
14:13:52 33 would complete an information report?---That's correct.
14:13:53 34
14:13:55 35 Were you involved in or aware of any meetings with Carl
14:13:59 36 Williams and Mr Dale where no information report was
14:14:02 37 prepared?
14:14:03 38
14:14:04 39 MR WINNEKE: Commissioner, I'm not interrupting my learned
14:14:06 40 friend, I don't want to do that, but I assume there's a
14:14:08 41 relevance of the questioning to the involvement of Nicola
14:14:14 42 Gobbo and matters concerning her. I simply raise that
14:14:16 43 point, without wanting to interrupt, I just wanted to
14:14:22 44 ensure that that's the case.
14:14:23 45
14:14:23 46 COMMISSIONER: Yes Mr Holt. There should be - - -
14:14:26 47

14:14:26 1 MR HOLT: And there is, Commissioner.
14:14:28 2
14:14:28 3 COMMISSIONER: Okay.
14:14:29 4
14:14:29 5 MR HOLT: There is, Commissioner, and I'm happy to
14:14:30 6 indicate.
14:14:30 7
14:14:30 8 COMMISSIONER: I accept that.
14:14:31 9
14:14:31 10 MR HOLT: Thank you. I'm not going to be hours, I promise.
14:14:34 11
14:14:34 12 COMMISSIONER: No.
14:14:35 13
14:14:36 14 MR HOLT: In terms of the meetings that you did attend with
14:14:38 15 Mr Williams and Mr Dale, would you tell me where those
14:14:42 16 were, please?---It was at a shopping centre, the one. I
14:14:46 17 can only remember one. There could have been a second one
14:14:49 18 at the same place.
14:14:50 19
14:14:50 20 Which shopping centre, do you recall?---It was out the
14:14:57 21 northern suburbs. Could have been Gladstone Park or
14:15:00 22 Westfield or somewhere like that.
14:15:02 23
14:15:02 24 Was there a meeting that you recall occurring at a swimming
14:15:07 25 pool at a leisure centre?---No.
14:15:09 26
14:15:09 27 Where Mr Dale and Mr Williams actually swam or purported to
14:15:13 28 swim; were you present at that?---No.
14:15:14 29
14:15:15 30 And you recall being involved in a job surveilling a house
14:15:19 31 in Rye which involved, and this is in or about March of
14:15:25 32 2003, which involved allegations of the manufacture of
14:15:27 33 methylamphetamine and other drugs?---Yes.
14:15:29 34
14:15:30 35 And you and Mr Dale were involved at times in the
14:15:33 36 surveillance of that property?---Yes.
14:15:34 37
14:15:36 38 I want to ask you specifically do you recall a day when you
14:15:39 39 and Mr Dale left surveillance duties in Rye and drove to
14:15:43 40 Frankston and met with Mr Williams in or near
14:15:48 41 Frankston?---I never met with Mr Williams at Rye or in that
14:15:50 42 vicinity.
14:15:51 43
14:15:51 44 Thank you. At any of the one or two meetings that you
14:15:56 45 recall with Mr Dale did you see Mr Williams hand anything
14:16:00 46 to Mr Dale, for example, an envelope?---No.
14:16:05 47

14:16:05 1 Thank you. Turning then to Dublin Street and the burglary
14:16:09 2 at Dublin Street. You had become, as I understand it,
14:16:17 3 involved, that is the crew that you and Mr Dale were on,
14:16:20 4 became involved in the operation which targeted, among
14:16:23 5 other things, the premise at Dublin Street in or about
14:16:27 6 August of 2003?---Yes.
14:16:29 7
14:16:29 8 It had been taken over by your crew from another crew
14:16:33 9 essentially because of workload issues. You might not
14:16:39 10 recall?---No, we didn't take that over, we just assisted.
14:16:42 11
14:16:42 12 You just assisted?---It was another crew's job.
14:16:47 13
14:16:47 14 I see. Which crew, do you recall?---Graeme Sayce's crew.
14:16:51 15
14:16:52 16 Thank you. In the period of time leading up to the Dublin
14:16:58 17 Street burglary, did you and Mr Dale and Mr Hodson attend
14:17:05 18 together at Dublin Street?---No.
14:17:07 19
14:17:07 20 Early hours of the morning or attend nearby at the
14:17:10 21 McDonald's?---No.
14:17:11 22
14:17:14 23 Do you recall a meeting between you and Mr Dale and
14:17:18 24 Mr Hodson at a restaurant in Toorak Road?---We've met 40 or
14:17:29 25 50 occasions.
14:17:29 26
14:17:29 27 At a restaurant in Toorak Road, I'm talking about in the
14:17:33 28 week or so, a couple of weeks before the burglary at Dublin
14:17:36 29 Street?---Quite possibly, yes.
14:17:38 30
14:17:39 31 I suggest a meeting at which it was asked of Mr Hodson by
14:17:44 32 you and/or Mr Dale whether or not Mr Hodson would be
14:17:47 33 prepared to participate in the burglary of Dublin
14:17:50 34 Street?---No, that didn't occur.
14:17:51 35
14:17:51 36 I see. On the day of the burglary of Dublin Street you
14:17:57 37 were off duty, is that right? You were off duty?---Depends
14:18:05 38 on what you call off duty. When's a detective off duty?
14:18:10 39
14:18:11 40 When they're not rostered to work?---I've never had a
14:18:14 41 roster since I've been in the Drug Squad.
14:18:17 42
14:18:17 43 I had understood your answer to a question asked of you
14:18:21 44 before lunch by Mr Nathwani, that you agreed that you were
45 on a day off but had volunteered to do the change over of
14:18:23 46 the surveillance tapes?---Which then puts me on duty if you
14:18:26 47 want to call that on duty.

14:18:28 1
14:18:28 2 In any event, do you agree that there were a number of
14:18:30 3 phone calls between you and Mr Hodson on that day, that is
14:18:33 4 the day of the Dublin Street burglary?---I don't recall.
14:18:36 5
14:18:36 6 I'll give you some times: 2.13 am, 2.48 am, 5.41 pm. I'm
14:18:47 7 sorry, you just shook your head but do you have a comment
14:18:49 8 of some sort to make?---I don't recall. You'd have to show
14:18:52 9 me some sort of - - -
14:18:55 10
14:18:55 11 Yes, thank you Commissioner.
14:18:56 12
14:18:56 13 COMMISSIONER: Any other questions? Re-examination?
14:19:05 14
14:19:05 15 <RE-EXAMINED BY MR WINNEKE:
14:19:05 16
14:19:06 17 Just a couple of matters. You were asked questions about
14:19:13 18 when it might have been that you had the meeting with
14:19:16 19 Ms Gobbo where it was apparent to you that she worked out
14:19:22 20 the name of your informer and it was suggested it might
14:19:25 21 have been in December because I think there was a bail
14:19:27 22 application around December of 2002 for Mr Pidoto. If
14:19:36 23 Exhibit 150 could be put up. It appears that there was a
14:19:43 24 bail application - I'm sorry, there was an application on
14:19:56 25 21 May 2003 and that's the one that you've referred to in
14:20:02 26 your diary; is that right?---Yeah, the only reference in
14:20:02 27 that - - -
14:20:02 28
14:20:08 29 Day book, I'm sorry?---The only reference in that day book
14:20:11 30 was the fact that I spoke to Gobbo in court and De Santo
14:20:14 31 was present. It didn't actually clearly specify that that
14:20:17 32 was the actual date that I'm referring to.
14:20:21 33
14:20:23 34 The other two dates earlier on, it was suggested it might
14:20:30 35 have been 9 December, a bail application for Shane Pidoto
14:20:33 36 on 14 November 2002. It was suggested that those might
14:20:36 37 have been the dates. Mr Holt was trying to establish
14:20:43 38 whether or not that could have been the hearing that
14:20:47 39 Ms Gobbo spoke to you. Do you say that could or couldn't
14:20:51 40 or do you not know?---I don't know. He's just saying that
14:20:56 41 it's preceded the time frame of when the informer number
14:21:01 42 system changed.
14:21:02 43
14:21:03 44 Just going through your diaries, it appears that you're on
14:21:06 45 leave for nine weeks from 15 September and then there were
14:21:10 46 four weeks of what's described as RD. I'm not too sure
14:21:21 47 what that means, RD?---Rostered day off. Would have been

14:21:26 1 days owed to me.
14:21:27 2
14:21:28 3 It appears that you've been on leave effectively from 15
14:21:31 4 September 2002 to 16 December 2002. Is it possible that
14:21:35 5 you could have come in for a bail application whilst you
14:21:38 6 were on leave or not?---It's possible but it would have
14:21:42 7 been in me day book or diary.
14:21:44 8
14:21:44 9 If you had it it would have been in your day book or your
14:21:47 10 diary, would that be right?---Yes.
14:21:49 11
14:21:50 12 Could you just have a look at your day book and your diary
13 what am I looking for, if I came back in over that period?
14
14:22:18 15 Yes. You're on leave. Do you come in to do a bail
14:22:22 16 application, 14 November 2002, 9 December 2002?---What was
14:22:43 17 it, 9 December?
14:22:45 18
14:22:46 19 Can you tell the Commission were you on leave for that
14:22:50 20 period of time that I suggested and did you at any stage
14:22:53 21 during that period attend a bail application according to
14:22:56 22 your diary or your day book?---Not on the 9th and not
14:23:00 23 during that period that you're showing me.
14:23:02 24
14:23:02 25 If we're trying to establish when it was, it appears not to
14:23:06 26 have been in that period when you were on leave, is that
14:23:08 27 right? Would it be fair to say?---Yes.
14:23:11 28
14:23:12 29 It's clearly another day in any event; is that
14:23:15 30 right?---Yes.
14:23:15 31
14:23:19 32 You were asked questions about what was said by Mr Nathwani
14:23:27 33 and it was suggested that it wasn't in your statement, that
14:23:32 34 Ms Gobbo had said to you in effect that she'd identified
14:23:35 35 the name of your informer. I just wonder if you could have
14:23:39 36 a look at a document that I'm going to show you. It's an
14:23:46 37 interview which was conducted with you on 30 June 2004 and
14:23:49 38 I'd ask you to have a look at it without going into detail
14:23:57 39 in terms of that document, what it is and so forth. If you
14:24:06 40 can just read the front page of that document. Do you see
14:24:10 41 that?---At the top, record of interview between David - - -
14:24:14 42
14:24:14 43 Just read it to yourself?---Yep.
14:24:16 44
14:24:17 45 Not the whole document but the actual introduction and so
14:24:30 46 forth. Do you recall attending for an interview on that
14:24:33 47 date with the people mentioned in that document?---Yes.

14:24:36 1
14:24:37 2 If you can go to p.29 of that document. To be clear,
14:24:52 3 that's an interview on 30 June 2004?---Yes.
14:24:55 4
14:24:59 5 Did you say this on that date in that interview, "Well, she
14:25:12 6 got two affidavits sent to her in violet court using 4390
14:25:18 7 by Mr Biggin to hide the fact and the reason used 4390 was
14:25:22 8 that that's the code and no one knows his name. Then 4390
14:25:30 9 came up in her two affidavits saying this is the informer
14:25:33 10 and we're not going to divulge who he is and we're going to
11 protect him. So straight away she knew the same person did
14:25:39 12 both those jobs and then when she goes, and well, if she's
14:25:42 13 speaking to her clients, I don't know what she does behind
14:25:45 14 the scenes, but certainly she leaned over to me in court
14:25:48 15 and she goes, 'I know who your informer is, I know it's
14:25:53 16 4390', and she mentioned his name in court". Is that the
14:25:59 17 evidence that you gave?---Yes.
14:26:00 18
14:26:00 19 Was that truthful evidence?---Yes.
14:26:01 20
14:26:01 21 I tender that document. Commissioner, I think that needs
14:26:07 22 to be a confidential exhibit because of various orders that
14:26:12 23 are in existence at present.
14:26:15 24
14:26:16 25 MR NATHWANI: Commissioner, can I make clear, I have no
14:26:18 26 knowledge of that document otherwise I wouldn't have
14:26:21 27 cross-examined the witness the way I did. I found out
14:26:26 28 about it after.
14:26:28 29
14:26:29 30 MR WINNEKE: No criticism of my learned friend at all.
14:26:32 31
14:26:33 32 #EXHIBIT R 153 - Record of interview of David Miechel,
14:26:40 33 30/6/04.
14:26:42 34
14:26:42 35 COMMISSIONER: Can I state who it's with, or maybe not?
14:26:46 36 Maybe not.
14:26:46 37
14:26:46 38 MR WINNEKE: I think best not, Commissioner.
14:26:49 39
14:26:49 40 COMMISSIONER: That will be a confidential exhibit not to
14:26:54 41 be published on the website. Yes.
14:27:10 42
14:27:10 43 MR WINNEKE: Thanks Commissioner. You were aware that
14:27:13 44 Ms Gobbo was representing Mr Mokbel in the period of
14:27:24 45 2002/2003, were you aware of that?---Yes.
14:27:26 46
14:27:27 47 And indeed you said that you were cross-examined on one

14:27:34 1 occasion in a matter that she was involved in, that might
14:27:36 2 have been later on?---That's correct.
14:27:37 3
14:27:38 4 But you were aware that she was involved in representing
14:27:41 5 Mr Mokbel in matters that had arisen from Operation
14:27:50 6 Kayak?---Yeah, I'm pretty sure she would have been
14:27:52 7 representing him back then.
14:27:53 8
14:27:54 9 You were also asked questions about whether you understood
14:28:01 10 whether Mr Mokbel had any involvement in the Dublin Street
14:28:05 11 operation?---Yes.
14:28:06 12
14:28:07 13 And your view was that he did not?---That's correct.
14:28:09 14
14:28:10 15 At least he hadn't come to light in any of your
14:28:14 16 investigations?---That's correct.
14:28:14 17
14:28:15 18 And your investigations had commenced in about August; is
14:28:19 19 that right?---Yeah, I can't remember, but it had been going
14:28:23 20 for a number of months.
14:28:24 21
14:28:24 22 You assisted another crew's operations, that is Mr Sayce;
14:28:28 23 is that right?---That's correct.
14:28:29 24
14:28:29 25 Would it be the case that you became involved in that
14:28:32 26 operation in about August or thereabouts, or do you not
14:28:36 27 recall?---Well I was originally on Mr Sayce's crew before I
14:28:41 28 went on to Paul Dale's crew, so I had involvement a bit
14:28:46 29 prior to us assisting him out.
14:28:50 30
14:28:52 31 Are you aware that Ms Gobbo came to represent a number of
14:28:56 32 people who had been arrested following the conclusion of
14:29:03 33 that operation, that is the operation concerning Dublin
14:29:08 34 Street?---I believe so.
14:29:11 35
14:29:11 36 Including Mr Ahmed, Azzam or Adam Ahmed?---Yes, quite
14:29:23 37 possible.
14:29:23 38
14:29:23 39 Abby Haynes?---Yes.
14:29:26 40
14:29:28 41 Colleen O'Reilly?---Yeah. I'm not sure.
14:29:30 42
14:29:31 43 Do you know whether she was involved in that
14:29:35 44 operation?---She was involved in it but I'm just not sure
14:29:39 45 whether Nicola Gobbo was the actual acting barrister.
14:29:42 46
14:29:42 47 She was acting for Mr Hodson?---I didn't know that.

1
2 Didn't know that?---No.
3
14:29:44 4 Do you know whether Mr Ahmed had any connection with
14:29:47 5 Mr Mokbel?---I don't know about directly but he certainly
14:29:52 6 was, we were purchasing drugs that were coming from his
14:29:55 7 safe house through another person.
14:29:57 8
14:29:58 9 Can you just - sorry, expand on that. You were purchasing
14:30:02 10 drugs?---Terrence Hodson was obtaining samples of drugs
14:30:06 11 which were coming from that safe house through another
14:30:11 12 dealer.
14:30:12 13
14:30:12 14 Was that in some way connected with Mr Mokbel?---No.
14:30:17 15
14:30:18 16 Did you know that Ms Gobbo was providing legal advice to
14:30:22 17 Mr Dale as well subsequent to the Dublin Street
14:30:27 18 arrests?---No.
14:30:28 19
14:30:30 20 No?---No. Subsequent, like after?
14:30:34 21
14:30:35 22 After the arrests, after your arrest?---Yeah, I did read
14:30:39 23 about that in the paper.
14:30:40 24
14:30:40 25 You did read about it. But you say you don't know about
14:30:44 26 that or you didn't know about it at the time?---No.
14:30:46 27
14:30:52 28 It appears that you were virtually the only person who
14:30:58 29 Ms Gobbo wasn't either representing or connected to, would
14:31:04 30 that be fair to say?---Yeah, I never really had anything to
14:31:06 31 do with her.
14:31:06 32
33 Yes, thanks very much.
34
14:31:07 35 COMMISSIONER: Yes, thanks Mr Miechel, you're free to go.
14:31:10 36 I understood there was some agreement that you would look
14:31:12 37 at your day books and diaries now and if you have anything
14:31:16 38 further to tell the Commission relevant to Ms Gobbo you
14:31:19 39 will do so; is that correct?---Well I don't have day books
14:31:22 40 and diaries.
14:31:24 41
14:31:25 42 MR HOLT: Commissioner, I don't think Mr Miechel is
14:31:27 43 represented.
14:31:27 44
14:31:28 45 COMMISSIONER: No, he's not.
14:31:29 46
14:31:30 47 MR HOLT: It might be, if it were possible, what we can do

14:31:30 1 is make arrangements for those items to be viewed at
14:31:33 2 perhaps our instructors' offices as we did with
14:31:37 3 Mr Strawhorn. Perhaps we can liaise with Commission staff
14:31:41 4 to see whether we can make those arrangements with
14:31:46 5 Mr Miechel.
14:31:46 6
14:31:46 7 COMMISSIONER: What you're being asked, Mr Miechel, is to
14:31:49 8 make the effort to spend some time now reviewing your
14:31:53 9 police books which will be made available to you to see if
14:31:56 10 there's anything else you can assist the Commission with,
14:31:59 11 all right?
14:32:00 12
14:32:01 13 MR HOLT: Commissioner, I'm just suggesting, they're here
14:32:03 14 so if Mr Miechel was prepared to we could sit him in a room
14:32:06 15 here I would suspect. A police officer could provide him
14:32:10 16 with the material.
14:32:11 17
14:32:12 18 MR WINNEKE: I don't want to interrupt or make a nuisance
14:32:12 19 of myself but I wonder if the alternative would be that if
14:32:15 20 copies could be made of Mr Miechel's documents and provided
14:32:18 21 to him so as he could do it at his leisure, rather than be
14:32:23 22 forced to do it this afternoon?
14:32:25 23
14:32:26 24 MR HOLT: Not in the circumstances and it doesn't need to
14:32:28 25 be this afternoon, we can make it any time that's
14:32:31 26 convenient to Mr Miechel to view his original diaries but
14:32:34 27 copies, I'm instructed, will not be provided, Commissioner.
14:32:36 28
14:32:37 29 COMMISSIONER: You can see why that would be the case.
14:32:42 30
14:32:43 31 MR WINNEKE: That's consistent with the approach that's
14:32:44 32 been taken, I understand that.
14:32:45 33
14:32:46 34 COMMISSIONER: Yes.
14:32:46 35
14:32:47 36 MR WINNEKE: In any event, Mr Miechel, are you prepared to
14:32:49 37 do that if an opportunity is given to you at a time that's
14:32:53 38 convenient to you to go and attend a police station and
14:32:56 39 pour over your diaries and day books with a view to
14:33:00 40 assisting this Commission?---I'm not interested in doing
14:33:03 41 that.
14:33:04 42
14:33:04 43 You're not prepared to do that?---I don't even know where
14:33:07 44 you're coming from, like what you actually want out of it.
14:33:08 45 Like I can look over the records, and what's that going to
14:33:12 46 prove?
14:33:13 47

14:33:13 1 All right. Perhaps we might communicate with Mr Miechel in
14:33:15 2 due course, Commissioner.
14:33:17 3
14:33:17 4 COMMISSIONER: All right. Thanks Mr Miechel, you can go
14:33:19 5 now.
14:33:21 6
7 (Witness excused.)
8
14:33:25 9 <(THE WITNESS WITHDREW)
14:33:25 10
14:33:26 11 MR WINNEKE: Commissioner, the next witness is Mr Dale.
14:33:30 12 Can I say this: Mr Dale has provided to the Royal
14:33:38 13 Commission, at the request of the Royal Commission, a
14:33:41 14 statement. It's a fairly lengthy statement in the sense
14:33:45 15 that it runs to about 160 paragraphs. It's dated 20 May of
14:33:51 16 2019.
14:33:52 17
14:33:52 18 COMMISSIONER: Is Mr Dale represented here today?
14:33:54 19
14:33:55 20 MR WINNEKE: He is, Commissioner. He's represented by
14:33:57 21 counsel and instructing solicitor.
14:33:59 22
14:33:59 23 COMMISSIONER: Perhaps we can make some room at the Bar
14:34:23 24 table. Yes, if you could announce your appearance, please.
14:34:27 25
14:34:28 26 MR STEWARD: Commissioner, I seek leave to appear on behalf
14:34:32 27 of Mr Paul Dale.
14:34:33 28
14:34:33 29 COMMISSIONER: Yes. I think because he's a witness leave is
14:34:38 30 automatically granted. I'm sorry, I don't have your name.
14:34:44 31
14:34:46 32 MR STEWARD: My name is Geoffrey Steward.
14:34:48 33
14:34:48 34 COMMISSIONER: Thanks Mr Steward. Are you a lawyer,
14:34:51 35 solicitor or barrister? I'm sorry, I'm not familiar with
14:34:52 36 the Victorian scene.
14:34:55 37
14:34:56 38 MR STEWARD: That's all right. Barrister.
14:34:56 39
14:34:56 40 COMMISSIONER: And instructed by?
14:34:58 41
14:34:59 42 MR STEWARD: Kirsty Grigor from Gordon Legal.
14:35:04 43
14:35:04 44 COMMISSIONER: Thank you.
14:35:07 45
14:35:07 46 MR STEWARD: Are there any other appearances relevant to
14:35:10 47 Mr Dale that haven't been announced today?

14:35:13 1
14:35:14 2 MS FITZGERALD: Yes, Commissioner. Ms Fitzgerald, I appear
14:35:16 3 on behalf of the Commonwealth Director of Public
14:35:20 4 Prosecutions. I wish to be granted leave to appear in
14:35:22 5 relation to the appearance of Mr Dale.
14:35:25 6
14:35:25 7 COMMISSIONER: Yes, thanks Ms Fitzgerald. Anyone else
14:35:29 8 appearing today on behalf of any parties in respect of
14:35:33 9 Mr Dale? All right then. Yes, Mr Winneke.
14:35:36 10
14:35:37 11 MR WINNEKE: We're waiting for Mr Dale. I know Mr Steward
14:35:38 12 wanted him to be here, but I just, by way of preamble, I
14:35:42 13 wanted to indicate what's proposed with respect to
14:35:44 14 Mr Dale's evidence.
14:35:45 15
14:35:45 16 COMMISSIONER: We should mention too that the Commission
14:35:48 17 only got Mr Dale's statement yesterday.
14:35:50 18
14:35:51 19 MR WINNEKE: Yes, that's correct.
14:35:51 20
14:35:52 21 COMMISSIONER: Well into yesterday, wasn't it?
14:35:53 22
14:35:54 23 MR WINNEKE: It was yesterday, well into yesterday, yes
14:35:58 24 indeed. Mr Dale's on his way. Perhaps we can wait until
14:36:02 25 he gets here. I withdraw that. I understand that it
14:36:17 26 arrived yesterday morning.
14:36:18 27
14:36:19 28 COMMISSIONER: Yesterday morning?
14:36:20 29
14:36:20 30 MR WINNEKE: Yes.
14:37:03 31
14:37:03 32 COMMISSIONER: I'm just checking, there is nobody here
14:37:06 33 representing the Hodson family?
14:37:09 34
14:37:09 35 MR WINNEKE: Yes, Mr Koh.
14:37:12 36
14:37:12 37 COMMISSIONER: That appearance should be noted too. Mr Koh
14:37:16 38 from Robinson Gill for the Hodson family, thank you.
39
14:39:57 40 Yes Mr Winneke.
14:39:58 41
14:39:58 42 MR WINNEKE: Thanks Commissioner. We call Paul Dale.
14:40:02 43
14:40:02 44 COMMISSIONER: Yes, all right. Oath or affirmation,
14:40:05 45 Mr Dale?---Oath, please.
46
47

14:40:08 1 <PAUL DALE, sworn and examined:
14:40:27 2
14:40:27 3 COMMISSIONER: Yes Mr Steward.
14:40:28 4
14:40:28 5 MR STEWARD: Thank you, Commissioner. Mr Dale, could you
14:40:30 6 please state your full name?---Paul Noel Dale.
14:40:34 7
14:40:36 8 You live at an address known to the Commission, is that
14:40:40 9 so?---That's correct.
14:40:40 10
14:40:43 11 What is your current occupation?---Self-employed business
14:40:47 12 owner.
14:40:48 13
14:40:51 14 Do you have a statement there in front of you?---Yes, I do.
14:40:54 15
14:40:55 16 Could you please get it out of the folder?---Yes.
14:41:03 17
14:41:03 18 Is that a statement that you made on 20 May of this
14:41:11 19 year?---That's correct.
14:41:11 20
14:41:13 21 Could you please go to the last page of that statement and
14:41:18 22 indicate whether that is your signature on the last
14:41:23 23 page?---Yes, it is.
14:41:24 24
14:41:28 25 Having read that statement are there any parts of it that
14:41:32 26 you wish to add to, alter or delete; and, if so, could we
14:41:40 27 just take it one step at a time. Are there any?---Yes,
14:41:45 28 there are.
14:41:46 29
14:41:46 30 Could you take us to the first one, please.
14:41:48 31
14:41:49 32 MR WINNEKE: Just before you do, Mr Holt's anxiously
14:41:53 33 looking at me. The situation is this, and I was going to
14:41:56 34 raise this before Mr Dale came in.
14:41:58 35
14:41:58 36 COMMISSIONER: Yes.
14:41:59 37
14:42:00 38 MR WINNEKE: As I indicated before, the statement's been
14:42:02 39 provided yesterday and there's no criticism of Mr Dale for
14:42:06 40 that. But as a consequence of the fact that it is a
14:42:10 41 lengthy statement containing a significant amount of
14:42:13 42 information and there are a lot of materials which in
14:42:17 43 effect are behind that statement which the parties haven't
14:42:21 44 had the opportunity to deal with, what's proposed is this
14:42:25 45 statement will be tendered as a confidential exhibit.
14:42:30 46 Mr Dale will re-attend the Commission on 17 June for the
14:42:35 47 purposes of cross-examination. That's what is proposed.

14:42:44 1 As I understand it Mr Steward is going to go through and
14:42:46 2 make some brief alterations to the statement. I don't know
14:42:50 3 exactly what they are, but I assume Mr Holt's concerned
14:42:53 4 about it because it may well be matters which are of
14:42:57 5 concern to his client. So perhaps before we do this we
14:43:06 6 might just need to make sure what the changes are and
14:43:08 7 whether they're of a substantive nature.
14:43:11 8
14:43:12 9 MR STEWARD: I think I can facilitate that process. I
14:43:16 10 understand the concerns and perhaps it might be best that
14:43:22 11 once the alteration is made it isn't read out, the sentence
14:43:28 12 isn't read out, so that were that to happen it might cause
14:43:33 13 some concern, it being read out loud.
14:43:40 14
14:43:42 15 COMMISSIONER: You just take him to each paragraph, ask him
14:43:45 16 to make the alteration without telling us what it is.
14:43:48 17
14:43:49 18 MR STEWARD: Yes.
14:43:49 19
14:43:49 20 COMMISSIONER: And then that can be shown to me and then to
14:43:51 21 the parties.
14:43:52 22
14:43:53 23 MR STEWARD: I don't know that this is terribly
14:43:55 24 controversial, Commissioner. Mr Dale, in relation to the -
14:44:05 25 this is paragraph 2. In relation to the 32 large boxes of
14:44:09 26 legal documents that you had indicated had been collected
14:44:14 27 by the Royal Commission from your home, your understanding
14:44:18 28 is that - paragraph 3, I'm sorry - your understanding is
14:44:23 29 that they are not with the Commission but with your
14:44:27 30 lawyers, the lawyers you've instructed; is that
14:44:29 31 so?---That's correct.
14:44:30 32
14:44:30 33 If I could take you to those changes then. You've heard
14:44:35 34 what the Commissioner said about just inserting the words,
14:44:41 35 do you follow?---Yes. Was it 32 boxes in the end or was
14:44:46 36 there more than that?
14:44:49 37
14:44:49 38 Thirty-two?---There was definitely 32, yep.
14:44:51 39
14:44:52 40 And they're with your solicitors?---Yes.
14:44:59 41
14:44:59 42 If you could please go to clause 126. Is it the case that
14:45:09 43 at the end of the first line in paragraph 126 you wish to
14:45:18 44 delete the word "these" and on the next line
14:45:23 45 "allegations"?---That's correct.
14:45:24 46
14:45:28 47 Could I then take you to paragraph 132 and could you go to

14:45:34 1 the last line of paragraph 132 and the third word in the
14:45:46 2 last line of that paragraph is "in". Do you wish to add
14:45:51 3 the word "an"?---AN, that's correct, "in an", "in an
14:45:57 4 attempt".
14:45:57 5
14:45:58 6 COMMISSIONER: Is that right substitute the word an. Is
14:46:00 7 that right, substitute the word "an" for "in"?
14:46:02 8
14:46:02 9 MR STEWARD: No, actually add it.
14:46:04 10
14:46:05 11 COMMISSIONER: Oh, "in an attempt", right. All right,
14:46:07 12 thank you.
14:46:08 13
14:46:08 14 MR STEWARD: Could you please, Mr Dale, go to paragraph
14:46:16 15 139?---Yes.
14:46:16 16
14:46:20 17 If you go to the third line that commences with the words
14:46:24 18 "did not exist", is it the case that after the next four
14:46:31 19 words you wish to add the word "no", NO?---Correct, yes.
14:46:38 20 Add "no".
14:46:40 21
14:46:40 22 COMMISSIONER: I don't think it's controversial, that
14:46:48 23 reads, "It was his evidence no written note"?---Yes,
14:46:53 24 correct.
14:46:53 25
14:46:54 26 MR STEWARD: This might be slightly more controversial.
14:46:56 27
14:46:57 28 COMMISSIONER: Yes.
14:46:57 29
14:46:58 30 MR STEWARD: Paragraph 151, do you see that?---Yes.
14:47:00 31
14:47:02 32 After the words - sorry, after the word "whilst", do you
14:47:07 33 wish to add the words "there are"?---That's correct,
14:47:20 34 "whilst there are VicPol members".
14:47:22 35
14:47:22 36 And they are the additions, alterations or deletions that
14:47:26 37 you seek to make?---Yes, please.
14:47:28 38
14:47:29 39 That having been done, is the statement that you have
14:47:35 40 signed dated 20 May true and correct?---Yes, it is.
14:47:40 41
14:47:42 42 I seek to tender that, Commissioner.
14:47:45 43
14:47:46 44 #EXHIBIT RC154 - Statement of Paul Dale.
14:47:49 45
14:47:49 46 COMMISSIONER: I gather for the time being until Victoria
14:47:53 47 Police and other parties have had an opportunity to

14:47:59 1 consider it in some detail for PII and other issues, it
14:48:03 2 will remain a confidential exhibit. That's what I
14:48:09 3 understand is the position?
14:48:10 4
14:48:10 5 MR HOLT: Yes, that's the position, Commissioner. In terms
14:48:13 6 of it being a confidential exhibit, can I just simply raise
14:48:17 7 this issue: the Commissioner may be aware that tracts or
14:48:25 8 quotes from the statement appeared in the media this
14:48:30 9 morning.
10
11 COMMISSIONER: It certainly didn't come from the
12 Commission.
13
14 MR HOLT: And I should say, Commissioner, I don't raise it
15 by any suggestion - indeed, the media article, as the
14:48:31 16 Commission will know, referred to a draft statement which
14:48:33 17 we assume that the Commission has never had, but for better
14:48:36 18 or worse it's there, including quotes that appear to come
14:48:40 19 out of this particular statement, and thus we would either
14:48:42 20 respectfully ask that be made clear or if not clear, that
14:48:43 21 there be an order that there be non-publication of the
14:48:46 22 content of the statement because otherwise if persons in
14:48:50 23 the media are in possession of a draft and can simply
14:48:53 24 otherwise publish it because it's not technically the
14:48:56 25 statement that was signed, that would defeat the purpose
14:49:00 26 for which the confidentiality is being applied to it so I
27 respectfully seek a non-publication order in respect of the
14:49:03 28 contents of the statement.
14:49:04 29
14:49:04 30 COMMISSIONER: At this stage?
14:49:05 31
14:49:06 32 MR HOLT: At this stage, Commissioner, of course. And I
14:49:07 33 should say there's no intention that this remain a
14:49:10 34 confidential document forever, simply for the reasons our
14:49:14 35 learned friend has indicated, it raises a lot of issues
14:49:16 36 which need to be considered and given there's going to be
14:49:19 37 some time until cross-examination, that that be able to be
14:49:22 38 done without the statement otherwise being in the public
14:49:25 39 domain and we're grateful, Commissioner.
14:49:26 40
14:49:26 41 COMMISSIONER: Are there any contrary submissions? All
14:49:29 42 right then. I'm satisfied that under the *Inquiries Act* it
14:49:35 43 is necessary - - -
14:49:38 44
14:49:39 45 MR WINNEKE: Just before you pronounce the order I just
14:49:41 46 wonder whether there are submissions that the media wish to
14:49:45 47 make about that.

14:49:49 1
14:49:49 2 COMMISSIONER: That's why I asked if there were any
14:49:53 3 contrary submissions?
14:49:57 4
14:49:57 5 MR WINNEKE: No, no. I'll sit down.
14:50:00 6
14:50:00 7 COMMISSIONER: All right then. In respect of Exhibit 154,
14:50:05 8 the statement of Paul Dale of 20 May 2019, I'm satisfied
14:50:09 9 under the *Inquiries Act* that it is necessary to order that
14:50:21 10 the contents of this statement not be published until
14:50:24 11 further order.
14:50:26 12
14:50:27 13 MR HOLT: If the Commissioner pleases.
14:50:32 14
14:50:33 15 COMMISSIONER: Mr Winneke, you're proposing then that
14:50:37 16 Mr Dale's evidence will be adjourned until the Commission
14:50:43 17 next sits on 17 June, is that right?
14:50:46 18
14:50:47 19 MR WINNEKE: That's the proposal, Commissioner.
14:50:49 20
14:50:50 21 COMMISSIONER: No submissions to the contrary?
14:50:54 22
14:50:54 23 MR HOLT: No Commissioner, thank you.
14:50:56 24
14:50:56 25 COMMISSIONER: Mr Dale, your evidence will be adjourned now
14:50:59 26 until 17 June at 10 am.
14:51:06 27
14:51:06 28 MR WINNEKE: If Mr Dale could be excused.
14:51:08 29
14:51:09 30 COMMISSIONER: Yes, you're free to go for the time being,
14:51:11 31 thank you Mr Dale.
32
33 <(THE WITNESS WITHDREW)
34
14:51:12 35 Thank you Mr Steward, I don't think the other
14:51:14 36 matters we still have to deal with will worry you. They're
14:51:19 37 mainly only housekeeping matters that probably only really
14:51:23 38 concern counsel for Victoria Police and the State,
14:51:26 39 probably.
14:51:27 40
14:51:27 41 MR STEWARD: Thank you Commissioner.
14:51:28 42
14:51:29 43 MR COLLINSON: Commissioner, can I just mention, I've had
14:51:31 44 some discussions with Mr Holt about this. It's quite
14:51:34 45 likely, given the matters raised in the statement of
14:51:38 46 Mr Dale, that there's some categories of police documents
14:51:41 47 that we'd be seeking from the police, perhaps via the Royal

14:51:46 1 Commission, and I've received a positive reaction on that
14:51:51 2 from Mr Holt, so I just wanted to put that on the record,
14:51:54 3 that we will need access to that material. If there is any
14:51:58 4 difficulty in that regard I suppose we'll contact the
14:52:00 5 Commission.
14:52:00 6
14:52:00 7 COMMISSIONER: Yes. Well I suppose the best thing would be
14:52:02 8 to liaise with the Commission's solicitors.
14:52:05 9
14:52:06 10 MR COLLINSON: Yes.
14:52:06 11
14:52:06 12 COMMISSIONER: If they're documents the Commission has I'm
14:52:09 13 sure we'll assist you.
14:52:11 14
14:52:11 15 MR COLLINSON: Yes.
14:52:12 16
14:52:12 17 COMMISSIONER: But if they're not documents we have it's
14:52:14 18 not easy for us to do much. You're really asking that it
14:52:20 19 might be necessary for a direction from the Commission that
14:52:22 20 you get certain documents, are you?
14:52:26 21
14:52:27 22 MR COLLINSON: Not at the moment because I'm expecting that
14:52:29 23 we might be able to achieve this corporatively.
14:52:31 24
14:52:33 25 COMMISSIONER: Yes. But that it may become - you're
14:52:34 26 flagging that it may be - - -
14:52:34 27
14:52:34 28 MR COLLINSON: If it were to present a problem we'll have
14:52:36 29 to enliven it.
14:52:36 30
14:52:36 31 COMMISSIONER: Yes. Obviously it's desirable that you be
14:52:38 32 in a position to proceed with this witness on the 17th of
14:52:42 33 June.
14:52:42 34
14:52:43 35 MR COLLINSON: Absolutely, yes.
14:52:43 36
14:52:44 37 COMMISSIONER: I'm sure Mr Holt and his instructors will be
14:52:46 38 taking that on board.
14:52:47 39
14:52:48 40 MR HOLT: The fruitful discussions we've had today will
14:52:50 41 continue, Commissioner, and my expectation is that we won't
14:52:53 42 need to trouble the Commission. If we do we'll try and do
14:52:56 43 so on as limited a basis as possible.
14:52:59 44
14:53:00 45 COMMISSIONER: All right then. A few matters we needed to
14:53:05 46 tidy up from yesterday and also to help things progress
14:53:08 47 smoothly as we move forward. Mr Winneke.

14:53:12 1
14:53:12 2 MR WINNEKE: Before we deal with those matters can I tender
14:53:15 3 two statements, Commissioner.
14:53:18 4
14:53:18 5 COMMISSIONER: Yes.
14:53:19 6
14:53:19 7 MR WINNEKE: The first is a statement of former member of
14:53:23 8 Victoria Police, former Sergeant Paul Firth.
14:53:33 9
14:53:34 10 #EXHIBIT RC155 - Statement of Sergeant Paul Firth.
14:53:40 11
14:53:40 12 MR WINNEKE: Can I also tender a statement of former member
14:53:43 13 of Victoria Police, Malcolm Rosenes.
14:53:50 14
14:53:51 15 #EXHIBIT RC156 - Statement of Malcolm Rosenes.
14:53:55 16
14:53:56 17 MR WINNEKE: Those are the two statements we'd seek to
14:53:57 18 tender.
14:53:58 19
14:53:58 20 COMMISSIONER: At this stage you're not planning to call
14:54:00 21 those people for cross-examination?
14:54:02 22
14:54:02 23 MR WINNEKE: No. No, we're not, Commissioner.
14:54:04 24
14:54:04 25 MR HOLT: Can I indicate, Commissioner, these were provided
14:54:04 26 to us this morning. We've reviewed them. They are no
14:54:08 27 public interest immunity claims in respect of those
14:54:10 28 statements, so nothing from Victoria Police's perspective
14:54:13 29 that would prevent them from being published.
14:54:13 30
14:54:13 31 COMMISSIONER: Thank you. I don't know what order we'll
14:54:29 32 deal with all these things in but it might be that Ms Enbom
14:54:34 33 wanted to deal with the matter about the Solomon statement.
14:54:39 34
14:54:39 35 MS ENBOM: Yes, Your Honour. A letter was sent to
14:54:43 36 solicitors assisting the Commission this morning. Have
14:54:48 37 you, Commissioner, been provided with a copy of that
14:54:51 38 letter?
14:54:51 39
14:54:51 40 COMMISSIONER: I have read it. I'll just find which one it
14:55:01 41 is.
14:55:11 42
14:55:11 43 MS ENBOM: I've got an additional copy.
14:55:12 44
14:55:13 45 COMMISSIONER: It might be quicker if you hand me up a copy
14:55:16 46 of it. I have read it. Yes.
14:55:31 47

14:55:31 1 MS ENBOM: You'll see, Commissioner, that an explanation
14:55:34 2 has been provided, a two and a half page explanation has
14:55:37 3 been provided as to what went wrong in relation to the
14:55:41 4 statement and in my submission the explanation indicates
14:55:50 5 that, or makes it clear that this was not an attempt to
14:55:56 6 withhold the document from the Royal Commission. It was -
14:56:05 7 it can be explained in this way: in summary, that the
14:56:08 8 person who received the document wished to speak to
14:56:15 9 Mr Solomon about it and the purpose of that conversation
14:56:19 10 was, "I've received the statement from you, this looks to
14:56:25 11 me to be more like a private submission to be given to the
14:56:30 12 Royal Commission, so is it really a document that you
14:56:33 13 should be providing to the Royal Commission rather than you
14:56:36 14 giving it to me to provide?" So he intended to have that
14:56:40 15 conversation. Time passed and the conversation didn't
14:56:45 16 happen and what effectively then happened was that the
14:56:49 17 member was focused, like all of us, on the issues that were
14:56:55 18 relevant for the first set of hearings. We all had our
14:57:00 19 attention on the first set of hearings and he effectively
14:57:03 20 put the statement to one side to be dealt with but at the
14:57:10 21 time he was focused on the issues for the first set of
14:57:14 22 hearings. Once we survived the first hearing block,
14:57:19 23 attention then shifted to the issues for the second hearing
14:57:22 24 block and he didn't go back to deal with the statement. He
14:57:29 25 did go back to deal with the statement as soon as it became
14:57:36 26 directly relevant to this block of hearings. So as soon as
14:57:42 27 it became apparent that a statement was required from
14:57:46 28 Mr Davey for this block of hearings, he performed his usual
14:57:54 29 role of contacting Mr Davey to arrange the statement and it
14:58:00 30 was in that call that Mr Solomon's statement came up and
14:58:04 31 the very next day he then put things in motion for
14:58:09 32 Mr Solomon's statement to be produced to the Royal
14:58:12 33 Commission. That was on 7 May. So it was really as a
14:58:21 34 result of this member being focused upon other issues and
14:58:27 35 having to attend to an enormous number of tasks and not
14:58:32 36 giving that statement the attention that it deserved when
14:58:36 37 it came in.

14:58:40 38
14:58:40 39 COMMISSIONER: Yes. Well I note the apology to the
14:58:43 40 Commission in the letter. Did you want to tender this
14:58:47 41 letter, Mr Winneke?
14:58:48 42

14:58:48 43 MR WINNEKE: Yes, Commissioner.
14:58:52 44

14:58:52 45 #EXHIBIT RC157 - Letter from Victoria Police's solicitors
14:58:58 46 to the Commission dated 22/5/19.
14:59:12 47

14:59:12 1 COMMISSIONER: Yes, thanks Ms Enbom.
14:59:31 2
14:59:31 3 MR WINNEKE: Can I just say, Commissioner, accepting
14:59:35 4 everything that's in the letter it is of concern - it says
14:59:38 5 on the next day, 7 May, [REDACTED]
14:59:43 6 commenced the production process for Mr Solomon's
14:59:46 7 statement, provided the evidence section of Task Force
14:59:52 8 Landow to then go through the production process. It is
14:59:58 9 troubling that despite that production process that it
15:00:07 10 simply didn't - there was no communications, appropriate
15:00:11 11 communications, and timely communications with the
15:00:15 12 Commissioner. In any event. And as I understand it the
15:00:19 13 Commission has never received it from Victoria Police. So
15:00:23 14 the production process which commenced on 7 May didn't
15:00:26 15 result in the document being produced or communications
15:00:29 16 about the document.
15:00:31 17
15:00:32 18 MS ENBOM: I can explain that, Commissioner. On the 7th it
15:00:34 19 was put into the production process, and that's in the week
15:00:39 20 leading up to this hearing block commencing, so there's a
15:00:41 21 lot of things happening, but it's put into the production
15:00:44 22 process with a lot of other documents, and one week later
15:00:49 23 we receive Mr Solomon's statement from the Royal
15:00:51 24 Commission, so it wasn't considered necessary for us to
15:00:54 25 produce the statement on the 15th when we'd just been given
15:00:58 26 it by the Royal Commission on the 15th.
15:01:04 27
15:01:04 28 COMMISSIONER: Thank you. Perhaps the next thing is to
15:01:10 29 deal with the matters that we're trying to get on to the
15:01:15 30 website, that there are still some outstanding PII or
15:01:21 31 redaction issues. I think, Ms Enbom, you're dealing with
15:01:29 32 this.
15:01:29 33
15:01:30 34 MS ENBOM: Yes, unfortunately I think that's mine as well.
15:01:33 35 You will remember, Commissioner, that on 20 May at about I
15:01:37 36 think 12.30 am we received a letter from the solicitors
15:01:41 37 assisting listing 29 matters that still required attention.
15:01:46 38
15:01:46 39 COMMISSIONER: Yes.
15:01:47 40
15:01:47 41 MS ENBOM: The following day, so yesterday, a response was
15:01:54 42 sent to that letter and the response contains a table in
15:01:56 43 which each of the 29 items is addressed. It does seem
15:02:04 44 consistent with the submission I made yesterday that there
15:02:06 45 has been a level of miscommunication between my instructors
15:02:12 46 and the solicitors assisting the Commission because many of
15:02:14 47 the items in the letter have already been addressed. Just

15:02:24 1 as an example - - -
15:02:25 2
15:02:25 3 COMMISSIONER: Could we just run through them, I think
15:02:28 4 that's going to be the quickest. You've sent a letter I
15:02:31 5 think with your - yes.
15:02:36 6
15:02:37 7 MS ENBOM: Yesterday evening at 7.42 pm, there's an email
15:02:44 8 from Abigail Gill.
15:02:45 9
15:02:46 10 COMMISSIONER: I think that's it. With a table on it.
11
12 MS ENBOM: Yes.
13
15:02:49 14 COMMISSIONER: It would probably be best if we go through
15:02:51 15 that with the 29 items. The transcript of 30 April in
15:02:58 16 camera sections, is that done yet?
15:03:03 17
18 MS ENBOM: No, that's still being reviewed for PII.
19
20 COMMISSIONER: When's it going to be done?
21
15:03:03 22 MS ENBOM: The table says "will be finalised as soon as
15:03:05 23 possible".
15:03:05 24
15:03:05 25 COMMISSIONER: That's not very definite, is it? What is as
15:03:09 26 soon as possible?
15:03:10 27
15:03:13 28 MS ENBOM: My instructions are at the Bar table that it was
15:03:17 29 at the top of the list of jobs to be PIIed but it's been
15:03:21 30 pushed down the list of priorities because other matters
15:03:24 31 have taken over in the last 24 hours, but we can push it
15:03:29 32 back to the top.
15:03:33 33
15:03:34 34 COMMISSIONER: Can we say 48 hours?
15:03:37 35
15:03:37 36 MS ENBOM: Yes.
15:03:38 37
15:03:38 38 COMMISSIONER: That's not a difficulty. The transcript of
15:03:40 39 9 May, is that finalised? I asked the Commission - from
15:03:46 40 your point of view you think it's finalised?
15:03:48 41
15:03:49 42 MS ENBOM: Yes.
15:03:49 43
15:03:49 44 COMMISSIONER: Does the Commission agree that that's
15:03:51 45 finalised and that that can go up now on the website?
15:03:54 46
15:03:55 47 MR WINNEKE: Commissioner, I'm not sure.

15:03:56 1
15:03:56 2 COMMISSIONER: Can someone assist?
15:03:59 3
15:03:59 4 MR WINNEKE: Yes, it can.
15:04:00 5
15:04:00 6 COMMISSIONER: It's ready to go?
15:04:02 7
15:04:03 8 MR WINNEKE: It's ready to go as far as the Commission is
15:04:04 9 concerned.
15:04:06 10
15:04:07 11 COMMISSIONER: 10 May is in the same position, is that
15:04:09 12 right, transcript for 10 May, can that now go up? Can
15:04:13 13 someone from - I'm getting some nods.
15:04:15 14
15:04:15 15 MR WINNEKE: I'm getting instructions, Commissioner. I
15:04:19 16 understand it can go up.
15:04:20 17
15:04:20 18 COMMISSIONER: Same with 15 May? This is all public
15:04:23 19 hearings.
15:04:25 20
15:04:25 21 MR WINNEKE: Yes.
15:04:25 22
15:04:26 23 COMMISSIONER: And 16 May, that can now all go up?
15:04:28 24
15:04:29 25 MR WINNEKE: Yes.
15:04:29 26
15:04:29 27 COMMISSIONER: What about number 10 on this list, the
15:04:32 28 letter to Commissioner Redlich?
15:04:36 29
15:04:37 30 MS ENBOM: Is that item 6?
15:04:38 31
15:04:38 32 COMMISSIONER: Yes, item 6.
15:04:41 33
15:04:42 34 MS ENBOM: My instructions are that that document is with
15:04:44 35 the solicitors.
15:04:44 36
15:04:45 37 COMMISSIONER: Yes, so I'm asking the Commission now if
15:04:47 38 there are any difficulty with that, if that can go up or if
15:04:51 39 there are further difficulties that need to be resolved?
15:04:56 40
15:04:58 41 MR WINNEKE: That can go up.
15:04:59 42
15:04:59 43 COMMISSIONER: Are you content with that?
15:05:00 44
15:05:01 45 MR WINNEKE: Yes.
15:05:02 46
15:05:04 47 COMMISSIONER: The next one is supposed to be provided

15:05:07 1 today so that hasn't come yet.
15:05:10 2
15:05:10 3 MS ENBOM: No, not yet.
15:05:11 4
15:05:12 5 COMMISSIONER: Then Item 8, it looks as though, according
15:05:23 6 to Victoria Police, that was sent some time ago and
15:05:27 7 re-sent, is that correct; and, if so, is that in order now?
15:05:38 8
15:05:38 9 MR WINNEKE: We'll have to - can we put that one to one
15:05:48 10 side, Commissioner.
15:05:49 11
15:05:49 12 COMMISSIONER: Yes. Exhibit 80, the Strawhorn statement,
15:05:51 13 content with the reviewed version? Supposedly sent on 26
15:05:58 14 April.
15:06:00 15
15:06:00 16 MR WINNEKE: There are public interest immunity matters
15:06:05 17 which perhaps are still at issue but as far as the
15:06:09 18 statement's concerned it can go up in its current state and
15:06:14 19 if we need to deal with it in due course we can do so.
15:06:18 20
15:06:18 21 COMMISSIONER: They tend to get lost if that's the case, so
15:06:21 22 it's best to sort it out within the next little while I
15:06:24 23 think.
15:06:25 24
15:06:25 25 MR WINNEKE: I can't take that any further, Commissioner.
15:06:27 26
15:06:27 27 COMMISSIONER: To be sorted out in 48 hours,
15:06:29 28 otherwise - - -
15:06:30 29
15:06:30 30 MR WINNEKE: Yes, we'll sort that out within 48 hours.
15:06:33 31
15:06:33 32 COMMISSIONER: That's the Commission's responsibility.
15:06:36 33 Then the fax from the OPP. The note is that this is not a
15:06:40 34 Victoria Police document and they'd like a copy of it, so
15:06:45 35 to request PII review.
15:06:47 36
15:06:47 37 MR WINNEKE: That'll be sent immediately.
15:06:50 38
15:06:53 39 COMMISSIONER: Item 11. That's yet to be confirmed by
15:07:04 40 Victoria Police.
15:07:05 41
15:07:05 42 MS ENBOM: Yes.
15:07:05 43
15:07:06 44 COMMISSIONER: We haven't got that yet.
15:07:07 45
15:07:08 46 MS ENBOM: No.
15:07:08 47

15:07:09 1 COMMISSIONER: All right. Same with item 12. We're
15:07:17 2 waiting on Victoria Police for that, they say they'll do
15:07:22 3 that by today. Item 13, there seems to be some suggestion
15:07:37 4 you've already produced it, but you're offering to produce
15:07:41 5 it a second time.
15:07:42 6
15:07:43 7 MS ENBOM: Yes, if it can't be located.
15:07:44 8
15:07:45 9 COMMISSIONER: When will that be done?
15:07:47 10
15:07:48 11 MS ENBOM: We can do that today.
15:07:48 12
15:07:48 13 COMMISSIONER: Today, all right. Item 14, supposedly
15:07:55 14 provided on 24 April and on the iron key on 7 May. Can the
15:08:07 15 Commission help me with that position?
15:08:18 16
15:08:19 17 MR WINNEKE: I'm instructed we're waiting on confirmation
15:08:21 18 from our learned friends about that matter.
15:08:25 19
15:08:26 20 COMMISSIONER: So I think the problem isn't that they
15:08:28 21 haven't been provided but whether they're provided in a
15:08:31 22 form that can be published.
15:08:34 23
15:08:35 24 MS ENBOM: I'll get some instructions about that. That
15:08:37 25 seems to be an area where there's miscommunication. We'll
15:08:41 26 deal with that today.
15:08:42 27
15:08:43 28 COMMISSIONER: 48 hours?
15:08:44 29
15:08:44 30 MS ENBOM: Yes.
15:08:55 31
15:08:56 32 COMMISSIONER: Exhibit 88 I think is Mr Strawhorn's
15:09:22 33 statement.
15:09:23 34
15:09:23 35 MR WINNEKE: Commissioner, that will be sorted out today,
15:09:25 36 Exhibit 88.
15:09:26 37
15:09:26 38 COMMISSIONER: Presumably it's not that it hasn't been
15:09:29 39 produced, it's getting it into a PII format that is the
15:09:35 40 problem.
15:09:35 41
15:09:36 42 MR WINNEKE: That appears to be the case and it doesn't
15:09:38 43 look as if it's going to take too long. That should be
15:09:41 44 done today.
15:09:42 45
15:09:42 46 COMMISSIONER: What I'm asking is whose responsibility is
15:09:48 47 it?

15:09:50 1
15:09:50 2 MR WINNEKE: We accept responsibility for that and we'll do
15:09:52 3 it.
15:09:52 4
15:09:53 5 COMMISSIONER: Right. So have VicPol given you their PII
15:09:59 6 claims in respect of that?
15:10:01 7
15:10:01 8 MR WINNEKE: I understand, according to this, the redaction
15:10:02 9 of Kruger is to be confirmed.
15:10:05 10
15:10:05 11 COMMISSIONER: They've already done the PII?
15:10:07 12
15:10:07 13 MS ENBOM: I think that's right. We've provided the
15:10:12 14 document in a form in which we're content.
15:10:14 15
15:10:14 16 COMMISSIONER: The Commission will sort that out. Assuming
15:10:18 17 they're content, that will go on the website. Letter to
15:10:21 18 Kruger from Solicitor 1, PII to be completed as soon as
15:10:25 19 possible. Again 48 hours?
15:10:27 20
15:10:27 21 MS ENBOM: Yes, Commissioner.
15:10:28 22
15:10:28 23 COMMISSIONER: 48 hours for VicPol for that. The De Santo
15:10:32 24 diary entries?
15:10:35 25
15:10:36 26 MR WINNEKE: We need to confirm which pages of the diaries
15:10:39 27 it wishes to publish and that will be done within the next
15:10:43 28 48 hours, Commissioner.
15:10:46 29
15:10:46 30 COMMISSIONER: To be provided, yes. That was tendered in a
15:10:48 31 bundle to be provided.
15:10:49 32
15:10:50 33 MR WINNEKE: It was, yes.
15:10:51 34
15:10:52 35 COMMISSIONER: The Commission will do that within 48 hours
15:10:57 36 and then we could ask for VicPol's response in another 48
15:11:04 37 hours?
15:11:04 38
15:11:04 39 MS ENBOM: Yes, Commissioner.
15:11:15 40
15:11:16 41 COMMISSIONER: Exhibit 107B was to be Mr Purton's redacted
15:11:20 42 statement.
15:11:22 43
15:11:23 44 MS ENBOM: And the table seems to indicate that there are
15:11:27 45 no PII claims over the statement so it can go on to the
15:11:31 46 website.
15:11:32 47

15:11:32 1 COMMISSIONER: It can go on to the website, so that's done.
15:11:46 2
15:11:47 3 MS ENBOM: Item 19, we'll do that in 48 hours.
15:11:50 4
15:11:50 5 COMMISSIONER: Thank you. Item 20 is in the Commission's
15:12:06 6 ballpark now I think, so we can deal with that in 48 hours
15:12:10 7 and I'll no doubt be informed if there are any issues?
15:12:15 8
15:12:15 9 MR WINNEKE: Yes, Commissioner.
15:12:16 10
15:12:17 11 COMMISSIONER: Item 21, confidential exhibit.
15:12:22 12
15:12:22 13 MS ENBOM: That's a very short document, I don't see why
15:12:25 14 that can't be reviewed in 48 hours.
15:12:28 15
15:12:28 16 COMMISSIONER: Yes. That's for Victoria Police to review
15:12:34 17 in 48 hours. Exhibit 113, the Kellam report as published
15:12:42 18 on the Supreme Court website. Victoria Police say they
15:12:46 19 have no issue with the document being published. They
15:12:49 20 thought they'd told us that.
15:12:50 21
15:12:51 22 MR WINNEKE: Then it will be published.
15:12:52 23
15:12:52 24 COMMISSIONER: Published today?
15:12:54 25
15:12:54 26 MR WINNEKE: Yes.
15:12:54 27
15:12:55 28 COMMISSIONER: 23, the Hill statement with redactions. I'm
15:13:02 29 not quite sure what that note means but have Victoria
15:13:08 30 Police provided the Commission with their redactions in
15:13:12 31 respect of that?
15:13:15 32
15:13:16 33 MR WINNEKE: Just excuse me. That'll be - it's being
15:13:27 34 uploaded now.
15:13:28 35
15:13:29 36 COMMISSIONER: We've got everything we need in respect of
15:13:31 37 that one.
15:13:32 38
15:13:32 39 MR WINNEKE: I'm instructed.
15:13:33 40
15:13:34 41 COMMISSIONER: The redacted version of Hill's diaries.
15:13:41 42 Already provided to the Commission?
15:13:44 43
15:13:44 44 MR WINNEKE: Yes, it'll be a case of the Commission
15:13:48 45 confirming which pages of the diary it intends to publish
15:13:51 46 so that the PII review can be undertaken and that will be
15:13:55 47 done - - -

15:13:58 1
15:13:58 2 COMMISSIONER: The Commission will do that within 48 hours?
15:14:01 3
15:14:01 4 MR WINNEKE: 48 hours.
15:14:03 5
15:14:03 6 COMMISSIONER: Then the PII review will be done by Victoria
15:14:07 7 Police within another 48 hours?
15:14:08 8
15:14:09 9 MS ENBOM: Yes, Commissioner.
15:14:13 10
15:14:13 11 COMMISSIONER: The investigation chronology. It's been
15:14:23 12 provided to the Commission, is that right?
15:14:26 13
15:14:26 14 MR WINNEKE: Yes, it has. We've been provided with the
15:14:28 15 redactions and it's now in the court of the Commission to
15:14:34 16 satisfy itself as to whether the redactions are appropriate
15:14:37 17 and that'll be done within the next 48 hours also.
15:14:41 18
15:14:42 19 COMMISSIONER: Thank you. Nearly there. 26, that's
15:14:54 20 supposed to be completed today.
15:14:55 21
15:14:56 22 MS ENBOM: Today, yes.
15:14:57 23
15:14:57 24 COMMISSIONER: By Victoria Police. As is the next item.
15:15:03 25
15:15:03 26 MS ENBOM: That's right.
15:15:04 27
15:15:04 28 COMMISSIONER: Completed today. Okay. Then 28.
15:15:11 29
15:15:12 30 MS ENBOM: That appears to be a short document that could
15:15:14 31 be reviewed in 48 hours.
15:15:15 32
15:15:16 33 COMMISSIONER: 48 hours. Transcript of interview between
15:15:24 34 Gregor and Dale. Have we provided a copy of that document
15:15:31 35 to Victoria Police?
15:15:32 36
15:15:33 37 MR WINNEKE: Well we thought we had but it may well be that
15:15:35 38 we haven't and we'll do that immediately.
15:15:38 39
15:15:39 40 COMMISSIONER: It'll be provided today. Is 48 hours again
15:15:46 41 possible for that one?
15:15:48 42
15:15:49 43 MS ENBOM: Transcript of the interview between those two
15:15:51 44 people. May I just get some instructions? I'm just
15:16:02 45 wondering how long that transcript is.
15:16:14 46
15:16:15 47 MR WINNEKE: It's 31 pages.

15:16:16 1
15:16:17 2 MS ENBOM: We might need a little bit more time for that
15:16:19 3 one, especially given that we're attending to the other
15:16:23 4 matters within 48 hours.
15:16:24 5
15:16:24 6 COMMISSIONER: What about if I say close of business on
15:16:29 7 Monday?
15:16:30 8
15:16:30 9 MS ENBOM: Yes, Commissioner.
15:16:31 10
15:16:32 11 COMMISSIONER: That takes us up to Mr Campbell's statement,
15:16:38 12 so the remaining documents would all be able to be PIIed by
15:16:42 13 next Monday, is that too tight?
15:16:47 14
15:16:47 15 MS ENBOM: I have many people telling me that's too tight.
15:16:51 16 I suspect they're right.
15:16:54 17
15:16:54 18 COMMISSIONER: What about by next Wednesday? Next Friday?
15:17:00 19 That's my last offer.
15:17:02 20
15:17:02 21 MS ENBOM: Yes, we'll take that, Commissioner, thank you.
15:17:03 22
15:17:04 23 COMMISSIONER: That will be Exhibit 135 and following by
15:17:07 24 next Friday.
15:17:07 25
15:17:08 26 MS ENBOM: Yes. Item 22, the Kellam report, I understand
15:17:11 27 Mr Holt would like to address that item.
15:17:13 28
15:17:13 29 MR HOLT: Can I just raise an issue out of an abundance of
15:17:18 30 caution, Commissioner, about the Kellam report. The Kellam
31 report as it is on the Supreme Court website has already
15:17:22 32 been the subject of a PII review and redaction process and
15:17:22 33 Victoria Police is content with that. What of course it
15:17:25 34 might still do is infringe suppression orders in the
15:17:28 35 Supreme Court and our assumption is that the Commission
15:17:31 36 will be alive to that question. We're happy to assist if
15:17:34 37 there's a review of that needed.
15:17:35 38
15:17:35 39 COMMISSIONER: Then that certainly qualifies the statement
15:17:37 40 here that Victoria Police doesn't see an issue with it
15:17:41 41 being published.
42
43 MR HOLT: No, Commissioner.
44
15:17:42 45 COMMISSIONER: You're flagging that there may be issues.
15:17:45 46
15:17:45 47 MR HOLT: That's why I wanted to raise it.

15:17:47 1
15:17:47 2 COMMISSIONER: I did wonder when I saw that.
15:17:51 3
4 MR HOLT: That's why I've come to my feet, Commissioner,
15:17:52 5 because as the Commissioner will appreciate the table has
15:17:53 6 been prepared relatively quickly and I simply wanted to
15:17:56 7 ensure that that's from a PII perspective, if there are
15:18:02 8 suppression orders they still apply. We're happy to work
9 with our friends on that if necessary. I'm not sure the
10 extent to which it does but we can do that.
15:18:05 11
12 COMMISSIONER: Of course everyone should also be giving
15:18:09 13 priority to getting the public transcripts up as soon as
15:18:13 14 possible as well.
15:18:13 15
16 MR HOLT: Commissioner, I think that review is now
15:18:16 17 happening in a much more efficient way.
15:18:18 18
19 COMMISSIONER: Yes.
20
21 MR HOLT: And we'll continue to do that.
22
23 COMMISSIONER: Yes, I'm not expecting that I'll have to do
15:18:18 24 this sort of exercise into the future.
15:18:21 25
26 MR HOLT: Certainly not in respect to the public
15:18:24 27 transcript. I can indicate, Commissioner, the reviews of
15:18:26 28 that occur relatively quickly and what we are identifying
15:18:28 29 are issues around orders that the Commissioner has made
15:18:32 30 more than anything else.
15:18:39 31
32 COMMISSIONER: Yes.
33
34 MR HOLT: So that is happening relatively fast.
35
36 COMMISSIONER: Hopefully these sorts of reviews will become
15:18:40 37 redundant very soon as everyone works together in a more
15:18:44 38 timely way to get this system working.
15:18:48 39
40 MR HOLT: We hope so, Commissioner. Obviously as soon as
15:18:53 41 new material comes in that needs to be done then our
15:18:56 42 priority is necessarily shifted off if things are improving
15:18:59 43 if I might put it that way, optimistically.
15:19:00 44
45 COMMISSIONER: There's another matter I wanted to deal with
15:19:03 46 which is moving forward we're trying to get an agreed
15:19:06 47 protocol working between the Commission, Victoria Police

15:19:18 1 and the State and I think we're fairly close to that. I
15:19:26 2 just had some copies of that done before at lunchtime, does
15:19:29 3 anyone know where they are? At the last stage of
15:19:44 4 consultation I think the State had proposed some changes
15:19:50 5 and I had a look at those and I've tried to incorporate
15:19:54 6 them into - so I've left the original changes from the
15:20:02 7 State so you can see what the changes are. Are you
15:20:06 8 familiar with this, Mr Holt, this document?
15:20:08 9

15:20:09 10 MR HOLT: I'm familiar with a number of iterations of this.
15:20:11 11 I saw an iteration yesterday that had been received from
15:20:15 12 the State and we've been asked to provide comments back by
15:20:18 13 today, so I haven't had a chance to finalise instructions
15:20:23 14 on that.
15:20:23 15

15:20:23 16 COMMISSIONER: I'm trying to short-circuit this so that we
15:20:26 17 can move forward adopting this from now on so we have this
15:20:30 18 in place for the next round of hearings. What it means we
15:20:37 19 would work to is that the Commission, if you look at
15:20:43 20 paragraph 15, I think the first few paragraphs down to
15:20:49 21 there are uncontroversial. Paragraph 15, the State wanted
15:20:55 22 added in at the end there, it just seemed a bit bulkier so
15:21:00 23 it seemed to me better to put in, 15: "The Commission will
15:21:02 24 inform Victoria Police, the State of Victoria (as
15:21:06 25 represented by the Department of Justice and Community
15:21:09 26 Safety) and any other relevant State or Commonwealth
15:21:13 27 parties", et cetera. So that will involve the State of
15:21:16 28 Victoria right from the beginning in being informed about
15:21:22 29 who the Commission is intending to call as witnesses and
15:21:25 30 the categories of documents that are thought relevant to
15:21:27 31 produce four weeks before the witnesses are to give
15:21:32 32 evidence. That's the hope that we'll be able to do that so
15:21:36 33 that you have some good notice of it.
34

15:21:44 35 Then paragraph 16. Now what the State proposed in
15:21:47 36 paragraph 17 was to add in another step after, when it got
15:21:52 37 to the stage where Victoria Police and counsel assisting
15:21:56 38 the Commission couldn't agree, then it will get sent to
15:22:01 39 them. I mean I just don't think that's realistic time
15:22:05 40 wise. So what I was proposing was that we just keep the
15:22:10 41 State informed at an earlier stage. So 16 would become:
15:22:15 42 "If Victoria Police or any other State or Commonwealth
15:22:17 43 party considers any of those documents or the evidence of
15:22:20 44 the witnesses are properly subject to PII, the party
15:22:23 45 claiming PII will provide the Commission and the State of
15:22:27 46 Victoria as represented by the Department of Justice and
15:22:29 47 Community Safety with all documents in unredacted form two

15:22:33 1 weeks before the witness is to give evidence, subject to
15:22:37 2 undertakings of confidentiality, and advise the Commission
15:22:40 3 and the State of Victoria, et cetera, as to what part or
15:22:43 4 parts of documents amongst those produced and what evidence
15:22:46 5 of witnesses are said to be subject to a PII claim". So
15:22:50 6 that just means that they're involved, the State whose
15:22:54 7 claim it really is in any case, are kept abreast of that
15:22:58 8 from the first opportunity.
9

15:23:03 10 And then 17 would simply be: "If Victoria Police or
15:23:06 11 any other State or Commonwealth party", that would of
15:23:09 12 course take into account the State of Victoria, "Take issue
15:23:14 13 with the documents, counsel assisting the Commission and
15:23:19 14 counsel for the party making the PII claim", perhaps we
15:23:22 15 should say, "Party or parties making the claim will attempt
15:23:28 16 to resolve any PII issues", then if that can't be resolved
15:23:34 17 it's done by the Commission. So I'm really discussing this
15:23:38 18 with everyone while we're here present to see if that's all
15:23:42 19 workable.

15:23:44 20
15:23:45 21 MR HOLT: Commissioner, in terms of the broad structure the
15:23:47 22 Commission has proposed, we respectfully think that is very
15:23:50 23 workable. I'm aware that there are some issues upon which
15:23:52 24 I need to take final instructions in terms of the PII
15:23:54 25 protocol as had previously been agreed includes documents
15:23:58 26 being provided to the Commission redacted for example for
15:24:02 27 witness protection issues already, and that's just a matter
15:24:05 28 upon which I need to take some further instructions and
15:24:09 29 come back. But beyond that, with respect it appears to be
15:24:12 30 a more workable framework. I'm simply not in a position to
15:24:16 31 advance that one issue today but we'll certainly do that as
15:24:20 32 quickly as we can. The indication from the State yesterday
15:24:23 33 was that they had asked for a response today. It's simply
15:24:26 34 a matter with the hearings we haven't been able to manage.
15:24:28 35

15:24:28 36 COMMISSIONER: Okay. Would you be able to get back to us
15:24:34 37 tomorrow on that?

15:24:36 38
15:24:36 39 MR HOLT: I'll just take instructions, Commissioner.

15:24:38 40
15:24:38 41 COMMISSIONER: Sure.

15:24:42 42
15:24:47 43 MR HOLT: I'm instructed, Commissioner, it might take a
15:24:50 44 little more time than that in terms of ensuring we get
15:24:53 45 instructions at the appropriate senior level. There are
15:24:56 46 issues the Commission will be aware of in terms of taking
15:24:58 47 instructions.

15:24:59 1
15:24:59 2 COMMISSIONER: 48 hours?
15:25:00 3
15:25:01 4 MR HOLT: Perhaps, Commissioner, I would expect that that
15:25:03 5 would work and can we, I don't want to disappoint the
15:25:06 6 Commission by not being in a position to do that, perhaps
15:25:08 7 we could update the solicitors assisting the Commission
15:25:13 8 tomorrow with the expectation that we'll be able to
15:25:16 9 communicate that within 48 hours at the latest.
15:25:17 10
15:25:17 11 COMMISSIONER: I'm trying to do this cooperatively. I mean
15:25:17 12 if necessary it could be done as a Practice Direction.
13
14 MR HOLT: I understand.
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15:25:21 16 COMMISSIONER: I wanted your input to make sure that it is
15:25:26 17 an effective working protocol that is suitable to everyone.
15:25:31 18
15:25:31 19 MR HOLT: The one issue that I need to take instructions on
15:25:34 20 is one that I hope will facilitate what the Commissioner is
15:25:37 21 trying to achieve and would be very grateful if we could
15:25:41 22 have that time to do that in terms of, as I say, the
15:25:42 23 general idea of four weeks' notice and then two weeks is
15:25:44 24 one that we think will work much better, and make
15:25:47 25 everything work more easily. It's just that question of
15:25:48 26 whether any redactions are required.
15:25:51 27
15:25:52 28 COMMISSIONER: Yes.
15:25:52 29
15:25:52 30 MR HOLT: I simply need to work through that, Commissioner.
15:25:54 31
15:25:55 32 COMMISSIONER: Sure. Sorry, who's representing the State
15:25:58 33 today? Yes.
34
15:26:00 35 MS HILLIARD: We would also need to instructions on this
15:26:04 36 and I expect we can come back to you later today or
15:26:07 37 tomorrow.
15:26:07 38
15:26:07 39 COMMISSIONER: What I'll do is I'll have these changes
15:26:09 40 marked up on the document and circulated to you both and
15:26:16 41 we'll aim as we head towards the next hearings in June to
15:26:22 42 work on this protocol on this basis, that is we will try
15:26:28 43 and give you the four weeks' notice of the witnesses that
15:26:31 44 we're going to be calling in the next hearing so that you
15:26:35 45 can proceed accordingly.
15:26:37 46
15:26:37 47 MR HOLT: I think that will be the most significant step,

15:26:39 1 Commissioner, if we can proceed on that basis. We'll get
15:26:42 2 to it as quickly as can. I'm grateful.
15:26:42 3
15:26:42 4 COMMISSIONER: That's how we'll proceed.
15:26:44 5
15:26:44 6 COMMISSIONER: Are there any other housekeeping matters
15:26:48 7 that need to be dealt with?
15:26:50 8
15:26:51 9 MR HOLT: Not from our perspective, Commissioner.
15:26:53 10
15:26:54 11 MR WINNEKE: Nothing from our end of the Bar table,
15:26:55 12 Commissioner.
15:26:55 13
15:26:55 14 COMMISSIONER: All right then. We'll adjourn until 17
15:26:58 15 June.
15:33:17 16
15:33:18 17 ADJOURNED UNTIL MONDAY 17 JUNE 2019

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