

ROYAL COMMISSION INTO THE MANAGEMENT  
OF POLICE INFORMANTS

Held in Melbourne, Victoria

On Thursday, 28 March 2019

Led by Commissioner:           The Honourable Margaret McMurdo AC

Also Present

Counsel Assisting:           Mr C. Winneke QC  
                                      Mr A. Woods  
                                      Ms M. Tittensor  
                                      Ms P. Neskovcin QC  
                                      Mr S. Mukerjea

Counsel for Victoria Police   Mr S. Holt QC  
                                      Ms R. Enbom.  
                                      Ms K. Argiropoulos  
                                      Mr B. Murphy QC  
                                      Mr M. McLay

Counsel for State of Victoria  Dr C. Button SC  
                                      Mr L. Brown

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

Counsel for DPP/SPP          Mr C. Caleo QC  
                                      Mr P. Doyle  
                                      Ms K. O'Gorman

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

10:01:45 1 COMMISSIONER: Yes Mr Holt.  
10:01:46 2  
10:01:47 3 MR HOLT: May it please the Commissioner. I had undertaken  
10:01:50 4 to advise the Commission in relation to the potential PII  
10:01:53 5 claim yesterday by way of update.  
10:01:55 6  
10:01:55 7 COMMISSIONER: Yes.  
10:01:56 8  
10:01:56 9 MR HOLT: The update is that, and I've passed this on to  
10:01:59 10 counsel assisting, is that very significant inquiries have  
10:02:00 11 been made yesterday. A confidential affidavit is in the  
10:02:02 12 process of being prepared. My expectation at this stage is  
10:02:05 13 that that will be prepared and available to the Commission  
10:02:07 14 and those assisting the Commission by the end of today and  
10:02:10 15 that will then allow us to advance matters. In the  
10:02:12 16 meantime, I've had what I hope are the beginning of some  
17 productive discussions with counsel assisting as to ways in  
18 which we might avoid that issue needing to be litigated,  
19 and that's the extent of the update I can provide to the  
20 Commission at the moment in open hearing. I can provide  
21 more detail in closed hearing. If it please the  
10:02:30 22 Commissioner. But it might be more prudent for us to allow  
10:02:33 23 matters to develop over the course of the morning. I'm in  
10:02:36 24 the Commission's hands.  
10:02:38 25  
10:02:40 26 COMMISSIONER: Ms Neskovicin, and Mr Winneke, is that  
10:02:42 27 suitable to you?  
10:02:43 28  
10:02:44 29 MS NESKOVCIN: Yes, it is, Commissioner. We'll look  
10:02:46 30 forward to seeing the affidavit later today and if the  
10:02:49 31 Commission is apprised of where matters may head.  
10:02:51 32  
10:02:52 33 COMMISSIONER: Thank you. And I understood that there  
10:02:54 34 might be some other parties joining the matter, is that  
10:03:00 35 right?  
10:03:01 36  
10:03:02 37 MS NESKOVCIN: Commissioner, we've received notice  
10:03:04 38 overnight that media interests might be appearing today to  
10:03:07 39 make a submission, an application to the Commissioner. I'm  
10:03:11 40 not sure if there's anyone in the hearing room representing  
10:03:14 41 the media.  
10:03:15 42  
10:03:15 43 COMMISSIONER: It doesn't seem that there is. No. Thank  
10:03:19 44 you.  
10:03:19 45  
10:03:20 46 MS NESKOVCIN: Thank you, Commissioner.  
10:03:20 47

10:03:21 1 COMMISSIONER: Thank you. We'll wait to hear more and if -  
10:03:25 2 certainly it will be clarified by tomorrow morning, is that  
10:03:28 3 the position, Mr Holt?  
10:03:29 4  
10:03:30 5 MR HOLT: I would hope earlier, but certainly by tomorrow  
10:03:32 6 morning we'll be able to clarify precisely what course  
10:03:35 7 matters will need to take. And I'm grateful for the time.  
10:03:38 8  
10:03:38 9 COMMISSIONER: Thank you.  
10  
10:03:39 11 MR HOLT: The other issue is the discussion yesterday about  
10:03:42 12 a non-publication order in respect of SDU members or  
10:03:44 13 handlers more generally. A form of order which was worked  
10:03:47 14 on with the benefit of a bit of time overnight has been  
10:03:50 15 provided to the Commission. I understand Mr Woods might be  
10:03:54 16 considering that now. But I think that order can either be  
10:03:56 17 made or shortly made.  
10:03:57 18  
10:03:58 19 MR WINNEKE: That's satisfactory to the Commission, the  
10:03:59 20 form of that order that's been proposed by Mr Holt.  
10:04:02 21  
10:04:03 22 COMMISSIONER: I haven't, of course, seen it in final form.  
10:04:10 23  
10:04:11 24 MR WINNEKE: It'll be ready in the next few minutes. It's  
10:04:13 25 being printed out.  
10:04:14 26  
10:04:15 27 MR HOLT: We'll find an appropriate point to deal with  
10:04:17 28 that. It also has associated with it a list of proposed  
10:04:21 29 pseudonyms and some proposals as to how that's resolved,  
10:04:23 30 but we'll deal with that as soon as the Commission - - -  
10:04:25 31  
10:04:26 32 MR WINNEKE: Perhaps that ought to be dealt with at the  
10:04:28 33 moment. The pseudonyms at present contain the ranks of the  
10:04:36 34 police officers. The question arises as to whether the  
10:04:39 35 ranks of the officers is an embargoed - a suppressed piece  
10:04:45 36 of information. I'm led to believe that it is, that  
10:04:49 37 there's an order made by the Supreme Court which suppresses  
10:04:52 38 the ranks. If that's the case maybe that needs to be  
10:04:58 39 addressed but I don't know whether that's a matter that  
10:05:04 40 anyone else at the Bar table wants to be heard upon. I  
10:05:07 41 think Mr Chettle might.  
10:05:08 42  
10:05:09 43 MR CHETTLE: Yes.  
10:05:10 44  
10:05:10 45 COMMISSIONER: Mr Chettle.  
10:05:11 46  
10:05:11 47 MR CHETTLE: I have been provided with a copy of the draft

10:05:13 1 order. I'm happy with it. It does prohibit the  
10:05:16 2 publication of rank.  
10:05:17 3  
10:05:17 4 COMMISSIONER: Yes.  
10:05:18 5  
10:05:19 6 MR CHETTLE: I would be happy to have that removed because  
10:05:21 7 I think the experience and rank of the officers is  
10:05:24 8 something the Commission's interested in and it's certainly  
10:05:27 9 something I'm interested in. I mean the fact that they're  
10:05:30 10 Sergeants or Senior Sergeants isn't going to shatter the  
10:05:33 11 world, it seems to me.  
10:05:34 12  
10:05:34 13 MR HOLT: Can we say, the only reason that that's included  
10:05:36 14 is because we understand that it is in fact a matter that's  
10:05:38 15 presently prohibited from publication by way of a Supreme  
10:05:41 16 Court order. On the substantive issue we agree entirely,  
10:05:44 17 there's no difficulty from the police's perspective with  
10:05:44 18 rank being known, it's simply a question of the embargo  
10:05:48 19 that presently exists. We take no substantive issue with  
10:05:51 20 the point.  
10:05:51 21  
10:05:52 22 COMMISSIONER: Obviously that's a serious matter, if  
10:05:56 23 there's an order saying the ranks can't be referred to. Is  
10:06:01 24 that in place until 12 April or is it in place generally?  
10:06:06 25  
10:06:06 26 MR WINNEKE: No, that's ongoing. And it may well be,  
10:06:09 27 Commissioner - and I agree with my learned friend, both of  
10:06:11 28 my learned friends, it does seem to me to be entirely  
10:06:14 29 appropriate that this Commission know the ranks of all  
10:06:17 30 the police members.  
10:06:17 31  
10:06:18 32 COMMISSIONER: I understood that counsel assisting  
10:06:20 33 considered that was important to understand how the systems  
10:06:24 34 operated and so forth.  
10:06:25 35  
10:06:25 36 MR WINNEKE: Yes.  
10:06:26 37  
10:06:26 38 COMMISSIONER: It's really essential.  
10:06:27 39  
10:06:28 40 MR WINNEKE: If that's the case, and I'm led to believe  
10:06:31 41 that it is the case, that the ranks are in effect  
10:06:34 42 suppressed in perpetuity, then perhaps that'll need to be  
10:06:40 43 something that the parties can discuss and it may well need  
10:06:46 44 an approach to the Court of Appeal in order to - - -  
10:06:49 45  
10:06:49 46 COMMISSIONER: Whoever made the order, whether it was the  
10:06:51 47 Court of Appeal or Justice Ginnane.

10:06:53 1  
10:06:54 2 MR WINNEKE: Court of Appeal.  
10:06:54 3  
10:06:55 4 COMMISSIONER: It might be a single judge. It's a Court of  
10:06:57 5 Appeal order. If someone can, if you can find out exactly  
10:07:03 6 what order is in place that's concerning and then you can  
10:07:08 7 apply for a consent order to set it aside.  
10:07:11 8  
10:07:11 9 MR WINNEKE: I think that will have to be done.  
10:07:13 10  
10:07:13 11 COMMISSIONER: And it should be done as soon as possible.  
10:07:15 12  
10:07:15 13 MR WINNEKE: Yes.  
10:07:16 14  
10:07:16 15 COMMISSIONER: Thank you.  
10:07:16 16  
10:07:17 17 MR CHETTLE: Only partially set it aside, Commissioner.  
10:07:22 18  
10:07:22 19 COMMISSIONER: No, only insofar as we're talking about the  
10:07:25 20 ranks, Mr Chettle.  
21  
10:07:26 22 Are there any changes to the appearances that  
10:07:29 23 were announced yesterday?  
10:07:35 24  
10:07:35 25 MR NATHWANI: No. I should only add that Mr Collinson is  
10:07:38 26 not here at the moment but will be a bit later.  
10:07:39 27  
10:07:40 28 COMMISSIONER: Thank you very much. We'll resume with the  
10:07:43 29 witness Mr Paterson, is that right?  
10:07:45 30  
10:07:46 31 MR WINNEKE: Yes.  
10:07:46 32  
10:07:46 33 COMMISSIONER: Thanks Mr Paterson, if you could return to  
10:07:48 34 the witness box.  
10:07:49 35  
10:07:50 36 <NEIL JOHN PATERSON, recalled:  
10:07:58 37  
10:07:59 38 MR WINNEKE: Assistant Commissioner, I just want to perhaps  
10:08:01 39 reiterate a matter that I was asking you about yesterday.  
10:08:06 40 One of the questions that the Commission sought that  
10:08:12 41 Victoria Police answer is the relationship between members  
10:08:16 42 of Victoria Police and Nicola Gobbo from 93 to the present.  
10:08:26 43 I asked you yesterday about the absence in your statement  
10:08:33 44 of what I submitted was a significant component of the  
10:08:38 45 relationship between Ms Gobbo and Victoria Police and that  
10:08:41 46 is the relationship between her and Paul Dale at around the  
10:08:46 47 time of that Dublin Street burglary which occurred 27 or

10:08:52 1 thereabouts September of 2003 and subsequent. Are you  
10:08:56 2 aware that there was a contact between Dale and Ms Gobbo in  
10:09:06 3 the period of time from about 27 September through to  
10:09:14 4 Mr Dale's arrest in December of 2003?---I'm just going to  
10:09:26 5 take a moment just to - - -  
6  
10:09:28 7 By all means?--- - - - to refer to my statement because I  
10:09:31 8 know I have a section in there that does relate to Mr Dale  
10:09:34 9 and that's at 3.104 of my statement.  
10  
10:09:41 11 Yes?---I am not - I have no personal knowledge of that  
10:09:47 12 period of time of Ms Gobbo and Mr Dale. I am aware that  
10:09:52 13 there was some reference to periods of time when they had  
10:09:56 14 some engagement in the Kellam report.  
15  
10:09:59 16 Yes?---So there's some detail in that report which  
10:10:03 17 obviously is an appendix to my statement, an attachment to  
10:10:07 18 my statement. But I have no great knowledge of those  
10:10:10 19 matters.  
20  
10:10:11 21 All right. You would accept though that - I mean if you go  
10:10:15 22 to your statement at paragraph 3.78, or indeed 3.77, this  
10:10:26 23 is the historical relationship in answer to question 2 in  
10:10:38 24 the letter that the Commission - I'm sorry, question 1,  
10:10:42 25 that is the history of the relationship. We go from, in  
10:10:49 26 your statement, 3.77 talking about the Purana Task Force  
10:10:52 27 which was officially commenced on 12 May 2003, then by late  
10:10:57 28 2003 in paragraph 3.78, and then 3.79 talks about Stuart  
10:11:05 29 Bateson's notes from 22 March 2004. You move on to 24 July  
10:11:12 30 2004 and then the beginning of the Source Development Unit.  
10:11:18 31 There's a whole significant history which is simply left  
10:11:21 32 out, do you accept that?---Listen, I'm just not aware,  
10:11:25 33 Mr Winneke. I note that there's a section of my statement  
10:11:29 34 right - there's quite a number of paragraphs that deal with  
10:11:32 35 the way this statement was prepared.  
36  
10:11:33 37 Yes, I understand that?---I note that I have received a  
10:11:38 38 request from the Commission to do this statement. You  
10:11:43 39 know, I don't have personal knowledge of this so I've had  
10:11:46 40 to inform myself from others that have some knowledge. I  
10:11:50 41 am aware, of course, that you're going to have witnesses  
10:11:53 42 that have some great knowledge because they were involved  
10:11:56 43 in those matters.  
44  
10:11:58 45 Yes?---But I'm not that witness.  
10:12:00 46  
10:12:00 47 No, no, look I understand. This isn't a criticism of you.

10:12:03 1 You didn't know about these matters, but the Commission  
10:12:06 2 asks Victoria Police, which is a fairly large organisation,  
10:12:08 3 to prepare a statement about the history, which you agree  
10:12:15 4 we would be entitled to expect was a comprehensive  
10:12:19 5 statement about the history of the relationship. You  
10:12:22 6 accept that?---I accept that you have asked me, not  
10:12:25 7 Victoria Police, to do that statement. I am the executive  
10:12:29 8 officer selected to do that.  
10:12:30 9  
10:12:30 10 Yes?---I am relying off the briefings as described in a  
10:12:33 11 number of paragraphs of my statement to prepare that.  
10:12:35 12  
10:12:35 13 Right?---I note we've got a - my statement is over 70  
10:12:40 14 pages. We had a page limit of 75 pages.  
10:12:42 15  
10:12:42 16 Yes?---I wasn't aware of that. I expect that the people  
10:12:46 17 informing me provide me with relevant briefings and  
10:12:50 18 inclusions for the material that needs to be addressed to  
10:12:54 19 ensure that we provide a full and comprehensive response to  
10:12:58 20 the Royal Commission. What I can say is that if you feel  
10:13:04 21 that there are really matters that have been missed in my  
10:13:07 22 statement, I am absolutely happy to seek further advice.  
10:13:13 23  
10:13:14 24 Yes?---Be further informed and to provide an additional  
10:13:16 25 statement to the Royal Commission that covers those matters  
10:13:20 26 at my earliest opportunity.  
27  
10:13:21 28 All right. Look, I suppose essentially the point is this:  
10:13:25 29 this statement, you would have to accept, is not a  
10:13:28 30 comprehensive encapsulation of the history of the  
10:13:32 31 relationship between Ms Gobbo and Victoria Police, that  
10:13:36 32 being the case?---Absolutely it's not comprehensive. I  
10:13:39 33 think it would take me volumes of a statement to be  
10:13:41 34 comprehensive, rather than 71 pages.  
10:13:44 35  
10:13:44 36 All right. Indeed, it really isn't even a comprehensive  
10:13:48 37 summary of the relationship?---Yes, that's very much so the  
10:13:50 38 case.  
39  
10:13:51 40 Yes, all right. Do you accept that it's perhaps concerning  
10:13:53 41 that a significant aspect of the relationship is left  
10:13:57 42 out?---Again, I haven't got enough information in front of  
10:14:02 43 me or informed enough information to know the significance  
10:14:06 44 of the aspect that you've drawn attention to.  
10:14:09 45  
10:14:10 46 Yes?---I don't know Mr Dale personally.  
10:14:12 47

10:14:12 1 Yes?---I don't know Ms Gobbo personally.  
10:14:15 2  
10:14:16 3 No, I understand that?---I wasn't involved in those areas  
10:14:18 4 at that period of time in my career, I was elsewhere. I  
10:14:21 5 hear what you say.  
6  
10:14:22 7 Yes?---And I offer to make sure that I can inform myself  
10:14:28 8 and offer to make a further statement to the Royal  
10:14:31 9 Commission that covers that period of time.  
10:14:33 10  
10:14:33 11 Yes?---In a summary, high level - you know, the same style  
10:14:38 12 or greater detail if that's what's required.  
10:14:40 13  
10:14:42 14 Yes, okay. Can I ask you, effectively what you're saying  
10:14:47 15 is that as far as you're concerned you're not really the  
10:14:52 16 person to be asked about these sorts of issues. Who would  
10:14:54 17 be the best person that we ask, that the Commission does  
10:14:59 18 approach to ask to provide a comprehensive history of the  
10:15:02 19 relationship between police and Gobbo?---I think there's  
10:15:06 20 probably quite a number of former police officers that do  
10:15:10 21 know various sections. So here you're talking about a  
10:15:13 22 period of time, so 2004, 2005. I'm just trying to think  
10:15:20 23 who was in charge.  
24  
10:15:21 25 Can I just stop you there, and I don't mean to be rude.  
10:15:24 26 What we're seeking is a response from Victoria Police so  
10:15:27 27 one assumes that there is within Victoria Police, as at  
10:15:31 28 present, serving officers who have a comprehensive  
10:15:35 29 knowledge of the matters that pertain to the  
10:15:40 30 relationship?---I don't think that's the case.  
10:15:41 31  
10:15:41 32 Right?---I think most people with that knowledge are former  
10:15:45 33 members of Victoria Police and that there are some members  
10:15:47 34 in the organisation who will have some awareness of periods  
10:15:52 35 of time of that relationship. But there is no one person  
10:15:55 36 in this organisation left that would know the entirety of  
10:15:59 37 that. Indeed, I think that former members may not the  
10:16:04 38 entirety of that relationship.  
39  
10:16:06 40 Yes, I follow that?---They would know their period of time  
10:16:08 41 that they had some responsibility for a particular area.  
10:16:10 42  
10:16:11 43 Yes?---You know, there is no one repository for all of the  
10:16:17 44 information. A number of these matters were informed from  
10:16:20 45 files which were retrieved from our archive areas.  
46  
10:16:23 47 Yes?---In order to try and put things together to make as



10:16:28 1 comprehensive as possible my answer to the Royal  
10:16:31 2 Commission. But again, as I say, I'm absolutely willing  
10:16:34 3 and able, if there's a particular area that requires a more  
10:16:38 4 detailed coverage in a statement, to provide such a  
10:16:42 5 statement for the Royal Commission.  
10:16:44 6

10:16:45 7 Much appreciated. The Chief Commissioner himself would  
10:16:48 8 have some fairly detailed knowledge of matters going back  
10:16:52 9 to around 2007, would he not, because at that stage he was  
10:16:55 10 a Director of OPI which was involved with Operation Petra  
10:17:02 11 in in fact using Ms Gobbo as a source and getting  
10:17:06 12 information from her?---Yeah, again I'm not sure what the  
10:17:11 13 Chief Commissioner knows. I am aware that there was a  
10:17:14 14 period of time that he was a member of a management group  
10:17:17 15 or steering committee that oversaw the Petra Task Force,  
10:17:21 16 but, you know, subsequent to that I believe he came into  
10:17:26 17 Victoria Police as a public servant, not a sworn officer,  
10:17:30 18 and didn't have any further involvement in those matters.  
10:17:32 19 So I'm not in a position to know what the Chief  
10:17:36 20 Commissioner is aware of but I understand he will be a  
10:17:38 21 witness before this Royal Commission.  
10:17:39 22

10:17:39 23 Yes, all right. If I can perhaps move on then to the  
10:17:50 24 component or the part of your statement where you talk  
10:17:52 25 about the further registration of Ms Gobbo as a human  
10:17:58 26 source. You mention in your statement that - and I think I  
10:18:06 27 asked you, you're aware that Ms Gobbo had suffered from an  
10:18:12 28 illness and by early 2005 she'd recovered sufficiently to  
10:18:17 29 return to work. In point of fact, it may well be that  
10:18:23 30 Ms Gobbo had returned to work well before early 2005 but  
10:18:27 31 that's something that you're not aware of?---No, I'm  
10:18:30 32 provided the information. It's not in my knowledge.  
10:18:33 33

10:18:34 34 Okay. And you understand that throughout 2004 she'd been  
10:18:42 35 communicating with a Detective Bateson, Stuart  
10:18:47 36 Bateson?---That's correct.  
10:18:48 37

10:18:48 38 When she was a lawyer representing a person who'd been  
10:18:51 39 charged with serious criminal offences, murder I  
10:18:54 40 believe?---Yes, I believe that's the case.  
10:18:55 41

10:18:56 42 Yes, okay. You had access in making your statement to  
10:19:06 43 Detective Sergeant Bateson's diaries, or at least a summary  
10:19:10 44 of the diaries from 2004 into 2005?---No, I've no such  
10:19:14 45 access.  
10:19:15 46

10:19:15 47 Your statement makes reference to diary records?---Yes.

10:19:20 1 I'm aware that there is a chronology referred to in my  
10:19:23 2 statement.  
10:19:23 3  
10:19:23 4 Yes?---And statement records.  
10:19:25 5  
10:19:25 6 Yes?---As I indicated, at the time of making my statement  
10:19:30 7 all effort was being made to ensure that it was  
10:19:33 8 comprehensive and provided to the Royal Commission as soon  
10:19:36 9 as possible.  
10:19:36 10  
10:19:36 11 Yes?---I have not, and still have not, had the opportunity  
10:19:39 12 to read all of the attachments that have been provided in  
10:19:44 13 the four folders to the Royal Commission.  
10:19:45 14  
10:19:47 15 That would include the chronology which be had prepared by  
10:19:50 16 Detective Bateson which is I think referred to in footnote  
10:19:56 17 39 of your statement?---That's right. I haven't had the  
10:19:59 18 opportunity to read all of that material.  
19  
10:20:01 20 Okay, all right then. In your statement at paragraph 3.87  
10:20:11 21 you talk about Detective Bateson receiving a telephone call  
10:20:17 22 from Ms Gobbo, she wanted to speak to him about a  
10:20:19 23 confidential matter and they arranged to meet. There was  
10:20:22 24 further discussions by telephone over the following days  
10:20:26 25 and then they met in South Melbourne. In your statement  
10:20:30 26 you refer to a number of matters which find their way into  
10:20:38 27 Mr Bateson's diary?---That's right. I think they refer to  
10:20:41 28 the chronology that - - -  
29  
10:20:43 30 The chronology that was prepared or that you had been - - -  
10:20:48 31 ?---My understanding is that that chronology is not drawn  
10:20:51 32 just from Bateson's diary but is drawn from a number of  
10:20:54 33 locations to assist the Royal Commission specifically to  
10:20:58 34 understand the timeline.  
10:20:59 35  
10:20:59 36 All right, okay. So just again, and again this isn't  
10:21:03 37 criticism, I understand the fact that you're aware, but the  
10:21:06 38 statement really has been prepared for you. You understand  
10:21:08 39 that there's materials behind the statement which justify  
10:21:12 40 the matters which are set out in the  
10:21:14 41 statement?---Absolutely. That is - I'm relying on a number  
10:21:17 42 of people who were present and helping me at various stages  
10:21:21 43 of the making of this statement.  
10:21:22 44  
10:21:22 45 Yes?---And that is correct.  
10:21:23 46  
10:21:23 47 Okay, all right. What we do understand is that around

10:21:33 1 August of 2005 police had charged a number of people,  
10:21:38 2 including a gentleman by the name of Darren Bednarski, with  
10:21:45 3 drug offences?---That's correct.  
10:21:46 4  
10:21:47 5 And that Ms Gobbo had been asked to represent or advise  
10:21:55 6 Mr Bednarski?---That's correct.  
10:21:57 7  
10:22:02 8 Do you understand that on 31 August 2005 Ms Gobbo spoke to  
10:22:14 9 Detectives Paul Rowe and Steve Mansell at court and there  
10:22:18 10 was an indication that she may provide assistance to the  
10:22:21 11 police?---I'm aware that on 31 August that there was listed  
10:22:27 12 a bail application.  
13  
10:22:28 14 Yes?---But I'm not aware of the information that you've  
10:22:31 15 just said.  
10:22:32 16  
10:22:32 17 All right. What you've been informed is that according to  
10:22:40 18 Ms Gobbo - this is at 31 August and she'd been briefed to  
10:22:44 19 appear for Mr Bednarski and Ms Gobbo was asked to appear  
10:22:53 20 for Mr Bednarski. She did not know Mr Bednarski but she  
10:22:58 21 received a telephone call on the day of the arrest from  
10:23:03 22 Senior Constable Paul Rowe of the Major Drug Investigation  
10:23:07 23 Division who told her that Mr Bednarski was requesting to  
10:23:09 24 speak to her?---That's correct.  
25  
10:23:11 26 She then goes to the Melbourne Custody Centre, meets  
10:23:14 27 Mr Bednarski, then goes to the Melbourne Magistrates' Court  
10:23:18 28 on 31 August to appear for him on a bail application and  
10:23:24 29 she was highly stressed by this time because she was being  
10:23:28 30 pressured by Tony Mokbel to represent Mr Bednarski and to  
10:23:33 31 ensure that he obtained bail. She has stated that she felt  
10:23:36 32 that she was at a breaking point due to the position that  
10:23:39 33 she'd found herself in with Mr Mokbel. She recalls walking  
10:23:43 34 to court and hoping that she'd be hit by a tram or a  
10:23:47 35 car?---That's correct.  
36  
10:23:49 37 Are you aware that on that occasion Ms Gobbo was secretly  
10:23:54 38 recorded by Messrs Rowe and Mansell on that day?---No, I'm  
10:24:04 39 not aware of that.  
10:24:05 40  
10:24:06 41 Okay. Are you aware that during the course of later  
10:24:11 42 meetings prior to her being registered, that she was  
10:24:16 43 secretly recorded?---Sorry, can I just get you to ask that  
10:24:20 44 question again, sorry?  
45  
10:24:21 46 Yes. Are you aware that subsequent to that initial meeting  
10:24:24 47 on 31 August, and prior to her being registered, that she

10:24:28 1 was - I'll withdraw that. I'll withdraw that. What you've  
10:24:41 2 been informed is that the bail application didn't proceed  
10:24:45 3 due to logistical difficulties and the failure to get  
10:24:51 4 Mr Bednarski to court?---That's my belief, that's correct.  
10:24:55 5  
10:24:55 6 Okay, all right. In any event the MDID detectives raised  
10:25:03 7 the question of or the issue of Ms Gobbo providing  
10:25:06 8 information with their superior, Detective Acting  
10:25:11 9 Superintendent Robert Hill?---That's correct.  
10:25:11 10  
10:25:12 11 And he contacted the SDU?---Well I understand he completed  
10:25:15 12 a Request for Assistance Form.  
10:25:17 13  
10:25:17 14 Yes?---That was transmitted to the SDU.  
10:25:20 15  
10:25:20 16 Yes?---And that form was requesting their assistance to  
10:25:24 17 engage with Ms Gobbo and make some sort of assessment for  
10:25:28 18 her as suitability to be a human source.  
10:25:30 19  
10:25:30 20 All right. Do you know what form that assessment would  
10:25:34 21 have taken?---Typically that would have been a meeting  
10:25:39 22 between the potential human source, so that in this case  
10:25:44 23 it's Ms Gobbo, and members from the Source Development Unit  
10:25:49 24 where a conversation would have undertaken in context of  
10:25:53 25 the information or the types of information that she could  
10:25:55 26 supply, other personal aspects about her. It should cover  
10:25:59 27 aspects of motive and a number of other things informing a  
10:26:03 28 view about her suitability.  
10:26:03 29  
10:26:06 30 Yes?---Then you would obviously then undertake a risk  
10:26:10 31 assessment process.  
10:26:10 32  
10:26:11 33 Yes?---And go through a process to have an appropriate  
10:26:14 34 level person at that stage, not Mr Hill, someone over the  
10:26:19 35 Source Development Unit area make a decision to approve the  
10:26:22 36 registration.  
10:26:22 37  
10:26:23 38 Yes, I follow that. As you've indicated, then and  
10:26:28 39 previously clearly a person's motives in wanting to provide  
10:26:31 40 information are important?---Yes, absolutely.  
10:26:32 41  
10:26:33 42 The fact that a person is a registered legal practitioner  
10:26:35 43 is significant?---I believe so.  
10:26:36 44  
10:26:38 45 And do you believe that that is a matter that should have  
10:26:41 46 been given significant consideration at the time?---Yes, I  
10:26:44 47 do believe that that should have been given significant

10:26:48 1 attention at the time.  
10:26:49 2  
10:26:49 3 Yes. I assume you'd also say that even at the time it  
10:26:54 4 would have been appropriate to obtain legal advice as to  
10:26:56 5 whether or not it was really suitable to register  
10:27:00 6 her?---Yes, I agree with that but I'm not making any  
10:27:04 7 comment about those individuals because I don't know what  
10:27:07 8 they knew at that time. I know what I know.  
10:27:09 9  
10:27:10 10 Yes?---And had I been there, yes, I probably would have,  
10:27:13 11 but that's not the case.  
12  
10:27:15 13 I take it you have inquired as to whether legal advice was  
10:27:23 14 obtained at that time?---My understanding is, on the way  
10:27:25 15 I've been briefed, is that there was not legal advice  
10:27:28 16 obtained at that time.  
17  
10:27:29 18 Okay. Just on that question of legal advice, clearly it's  
10:27:36 19 an issue that is significant. When is the first time that,  
10:27:40 20 as far as your questions, investigations of others who had  
10:27:45 21 been providing information to you, when was the first time  
10:27:48 22 that legal advice was in fact provided to anyone within the  
10:27:51 23 Victoria Police about Ms Gobbo being used as a human  
10:27:54 24 source, bearing in mind she was a barrister?---Yes. So the  
10:27:59 25 first occasion that I am aware that legal advice is  
10:28:02 26 provided is the Maguire advice. I think that advice - I  
10:28:08 27 know it's referred to, I think it's 2009, but without going  
10:28:12 28 to the area of my statement I can't - - -  
10:28:14 29  
10:28:15 30 Do you believe there was an advice obtained in 2009?---I'd  
10:28:19 31 need to go to my statement. The Maguire advice is the  
10:28:21 32 first advice, whatever the date of that advice is.  
10:28:25 33  
10:28:26 34 Whatever the date, it's Mr Maguire, the first advice. If  
10:28:29 35 the date is 4 October 2011 - - - ?---Sorry, then that'll be  
10:28:33 36 the date, sorry.  
10:28:36 37  
10:28:36 38 So far as you're concerned the investigations of Victoria  
10:28:39 39 Police to date have revealed that the first time legal  
10:28:41 40 advice was obtained was October 2011?---That's my  
10:28:45 41 briefings, yes, and I've asked about that matter.  
10:28:47 42  
10:28:48 43 You've asked that very question?---Yes, I've asked when the  
10:28:53 44 legal advice was obtained and I'm told that the first legal  
10:28:56 45 advice that brought this particular issue to the attention  
10:28:59 46 of Victoria Police was the advice provided by Mr Maguire.  
10:29:02 47

10:29:02 1 Okay then. On 16 September 2005, you understand that she  
10:29:07 2 was introduced by Detectives Rowe and Mansell to two  
10:29:10 3 members of the SDU?---That's correct.  
4  
10:29:12 5 Okay. And thereafter she was registered as a human source,  
10:29:18 6 that's correct?---That's correct.  
7  
10:29:21 8 Okay. Do you agree that the intention of the police in  
10:29:28 9 registering her as a human source and obtaining information  
10:29:32 10 from Ms Gobbo was that her information would bring about  
10:29:35 11 the arrests of a number of people which might then bring  
10:29:40 12 about the downfall of various members of the Mokbel  
10:29:44 13 family?---Yes, that's part of it, that's right. I believe  
10:29:47 14 that it was looking at broadly the Mokbels and all of the  
10:29:53 15 organised crime and a number of murders that were committed  
10:29:56 16 at that time.  
17  
10:29:57 18 All right. I think I asked you yesterday about the  
10:29:59 19 objectives of Operation Posse and that's effectively  
10:30:05 20 consistent with the objectives, that that's what they were  
10:30:07 21 trying to achieve?---Absolutely.  
22  
10:30:09 23 And I take it your information, your understanding of the  
10:30:14 24 situation was that Ms Gobbo was in fact acting for as a  
10:30:20 25 legal representative of a number of members - well  
10:30:23 26 certainly Tony Mokbel?---Yes, that's correct.  
27  
10:30:37 28 Can I ask you this: aside from the members of the SDU, and  
10:30:42 29 you've mentioned two of them at this stage, have you made  
10:30:46 30 enquiries about which other or which senior officers of  
10:30:51 31 Victoria Police were aware that Ms Gobbo was being  
10:30:54 32 recruited as a human source?---I have read many documents,  
10:31:04 33 so there was at that stage over that Unit no Inspector but  
10:31:07 34 a Superintendent, I believe, that was over that area.  
10:31:09 35  
10:31:10 36 Do you recall his name?---I believe that is Superintendent  
10:31:13 37 Biggin.  
10:31:13 38  
10:31:14 39 Biggin?---That was over that area, so we're talking 2004.  
10:31:18 40 So at that stage there would have been a Commander - - -  
10:31:22 41  
10:31:22 42 2005?---2005, sorry. At that stage there would have been a  
10:31:26 43 Commander in charge of what was then the Intelligence and  
10:31:30 44 Covert Support Department. It wasn't at Assistant  
10:31:34 45 Commissioner level.  
10:31:34 46  
10:31:35 47 MR HOLT: Can I just talk to my learned friend briefly? I

10:31:38 1 apologise.  
10:31:39 2  
10:31:39 3 (Discussion at Bar table.)  
10:31:59 4  
10:32:00 5 MR WINNEKE: Just to be clear, because we haven't finalised  
10:32:02 6 the suppression order I'm not going to be asking about  
10:32:08 7 names or pseudonyms of any members of the SDU. I've got no  
10:32:11 8 doubt with your views about this you won't mention names,  
10:32:15 9 so just to be clear about that. In any event, on asking  
10:32:20 10 about senior members of the Victoria Police who are not  
10:32:23 11 members of the SDU, do you follow what I'm saying?---Yes,  
10:32:27 12 so they would have oversight or management of that area.  
10:32:30 13  
10:32:31 14 Mr Biggin wasn't a handler but he was a more senior member  
10:32:34 15 of that organisation, the SDU. I'm asking about senior  
10:32:38 16 members of Victoria Police who had oversight of that  
10:32:41 17 area?---Yes, that's right.  
10:32:42 18  
10:32:43 19 Can you remember or tell us about any names?---I understand  
10:32:47 20 Superintendent Biggin was the relevant Superintendent in  
10:32:50 21 charge.  
22  
10:32:50 23 Yes?---I mean the structures of the division that he was in  
10:32:53 24 charge of is very different to the structures that exist in  
10:32:57 25 my command at the moment.  
10:32:57 26  
10:32:57 27 Yes?---And as I said, at that stage a person of the rank of  
10:33:04 28 Commander was in charge of that department, not an  
10:33:07 29 Assistant Commissioner.  
10:33:07 30  
10:33:08 31 Yes?---The history of the creation of the Intelligence and  
10:33:13 32 Covert Support Department, then department, was that those  
10:33:15 33 functions used to exist within the Crime Department at a  
10:33:19 34 point in time in the history of Victoria Police they made a  
10:33:22 35 decision that it needed to be excised from the Crime  
10:33:26 36 Department and be a stand alone department within Victoria  
10:33:30 37 Police.  
10:33:30 38  
10:33:30 39 Yes?---And I believe that Commander Danye Moloney was  
10:33:42 40 appointed the inaugural Commander in charge of that new  
10:33:44 41 department but there was quite a period of time before he  
10:33:46 42 arrived in that role because he was still acquitting other  
10:33:49 43 responsibilities in the organisation.  
10:33:50 44  
10:33:51 45 All right. Simon Overland was Assistant Commissioner in  
10:33:54 46 Crime 2005?---Again, I'm not sure of the date that he took  
10:33:59 47 on that role but it is around that period of time that he

10:34:03 1 would have been an Assistant Commissioner and he certainly  
10:34:08 2 was the Assistant Commissioner at Crime for quite a period.  
10:34:10 3  
10:34:11 4 Would it be fair to assume that he must have been made  
10:34:13 5 aware of this situation?---So we - so the Intelligence and  
10:34:20 6 Covert Support Command is just that, it's a support  
10:34:23 7 command. It provides services to the other areas of  
10:34:26 8 Victoria Police. So the Superintendent and the Commander  
10:34:31 9 of Intel should have been aware and my assumption would  
10:34:35 10 also be aware that if Simon was the Assistant Commissioner  
10:34:38 11 of Crime Command that appropriate briefings were occurring  
10:34:41 12 in that section of the organisation and he would have or  
10:34:44 13 should have had some awareness of that.  
14  
10:34:46 15 Yes?---But I don't know what he was aware of.  
10:34:48 16  
10:34:49 17 As a matter of common sense, firstly, Purana was  
10:34:57 18 investigating very, very serious criminal activity that was  
10:35:00 19 going on at the time, the gangland wars, et  
10:35:04 20 cetera?---Absolutely.  
21  
10:35:04 22 Very serious drug trafficking matters?---Correct.  
10:35:06 23  
10:35:06 24 And Victoria Police had at its disposal, it appears,  
10:35:10 25 someone who may well have been able to provide significant  
10:35:14 26 information to enable Victoria Police to potentially charge  
10:35:21 27 and convict these people?---That's correct.  
28  
10:35:23 29 So one assumes that Victoria Police Force, including the  
10:35:28 30 members at the highest level, would have been provided with  
10:35:31 31 this information?---That is absolutely an assumption I make  
10:35:37 32 as an Assistant Commissioner myself. If you're dealing  
10:35:40 33 with these types of levels of enquiries and the prominence  
10:35:43 34 that that had to the community safety and the State of  
10:35:45 35 Victoria, then absolutely my expectation is that they would  
10:35:48 36 have been fully informed and making themselves aware of all  
10:35:53 37 of the matters and providing guidance and assistance and no  
10:35:56 38 doubt direction to various matters.  
39  
10:35:59 40 Okay. Look, one assumes - I think Christine Nixon was the  
10:36:03 41 Chief Commissioner at that time. One assumes that - you  
10:36:08 42 won't know whether she did or not, but you would assume she  
10:36:11 43 should have been made aware of this?---Absolutely. This  
10:36:15 44 was a period of time when we have significant violence  
10:36:19 45 happening on the streets of Melbourne. A number of people  
10:36:21 46 being shot and killed in very public locations with  
10:36:24 47 innocent members of the public, people not involved in that



10:36:27 1 criminal milieu at the time, being very close by.  
10:36:31 2  
10:36:31 3 Yes?---It would have been a period of time when all senior  
10:36:34 4 officers of Victoria Police would have held quite some  
10:36:37 5 concern for the safety of the community, as would have the  
10:36:41 6 Government of the day. I'm quite sure that a Chief  
10:36:46 7 Commissioner at that time would have been paying particular  
10:36:48 8 attention to what was occurring.  
9  
10:36:54 10 I asked you before about your knowledge of legal advice  
10:36:57 11 obtained. Are you aware of any legal advice sought prior  
10:37:02 12 to 2011?---No, I have no knowledge of any legal advice  
10:37:11 13 occurring prior to the advice that was sought from  
10:37:14 14 Mr Maguire.  
15  
10:37:15 16 Okay, all right then. Now, it's your understanding that  
10:37:21 17 information provided by Ms Gobbo was disseminated by the  
10:37:24 18 SDU to a number of task forces. The Purana Task Force  
10:37:29 19 we've spoken about?---Yes, that's correct.  
20  
10:37:31 21 Posse Task Force we've spoken about?---Correct.  
22  
10:37:34 23 Are you aware that it was passed to other areas of Victoria  
10:37:36 24 Police?---I'm aware that her information has been provided  
10:37:40 25 to Briars Task Force and also Petra Task Force which we  
10:37:44 26 spoke about yesterday.  
27  
10:37:45 28 Okay. Can you tell us about the Briars Task Force?---So  
10:37:52 29 the Briars Task Force I understand was a task force that  
10:37:55 30 was looking into the murder of a witness in a criminal  
10:37:59 31 trial matter, I think it was a Mr Chartres-Abbott.  
32  
10:38:06 33 He was an accused person in relation to a rape, wasn't  
10:38:09 34 he?---Yes.  
35  
10:38:10 36 Yes, okay. That was Briars. Was there some suggestion  
10:38:15 37 that there'd been the involvement of police officers in  
10:38:20 38 that transaction or at least in that series of  
10:38:25 39 events?---Yes, there was - I think there was two police  
10:38:28 40 officers that were considered at the time to have had some  
10:38:31 41 involvement and were persons of interest in the enquiries  
10:38:36 42 in the operation that was undertaken at that period of  
10:38:38 43 time.  
44  
10:38:39 45 All right. Are you aware that there was information which  
10:38:45 46 suggested that Ms Gobbo had connections or was friends with  
10:38:49 47 or had acted for one or other of those two police

10:38:54 1 persons?---I am aware of that now, yes, that at some stage  
10:38:59 2 she may have legally represented one of those individuals.  
10:39:02 3 I'm not sure whether that occurred prior to the homicide of  
10:39:08 4 Mr Chartres-Abbott or whether that was a subsequent period  
10:39:12 5 of time.  
10:39:13 6  
10:39:13 7 Are you aware that Briars, and this is perhaps jumping  
10:39:17 8 ahead a little, sought to have a statement taken from  
10:39:21 9 Ms Gobbo in relation to that matter?---Listen I'm not aware  
10:39:30 10 of whether that was actually the case or not.  
10:39:32 11  
10:39:32 12 Perhaps I'll come back to that?---Yes.  
10:39:34 13  
10:39:36 14 In terms of the flow of information from Ms Gobbo, the  
10:39:48 15 situation with respect to the SDU was that she had a number  
10:39:51 16 of people who would maintain personal contact with her,  
10:39:56 17 handlers?---That's correct.  
10:39:57 18  
10:39:57 19 And the idea was that she would provide information to  
10:40:03 20 those people who would then record that information and  
10:40:08 21 then provide information reports to investigators who may  
10:40:17 22 be inclined to use that information for the purpose of  
10:40:19 23 their investigations?---That's correct.  
10:40:20 24  
10:40:21 25 There's a concept known as sterile corridor?---That's  
10:40:26 26 correct.  
10:40:26 27  
10:40:26 28 That was the situation which should have existed, is that  
10:40:30 29 your understanding?---Yes. The concept of sterile corridor  
10:40:36 30 appears in a couple of ways. Either a full sterile  
10:40:39 31 corridor or a partial sterile corridor.  
10:40:42 32  
10:40:42 33 Yes?---I would describe this situation as a partial sterile  
10:40:46 34 corridor.  
10:40:46 35  
10:40:46 36 A sterile corridor, as I understand it, is - the point of a  
10:40:54 37 sterile corridor is to protect the identity of the source;  
10:40:58 38 is that right?---Yes, that's part of the reason.  
10:41:02 39  
10:41:02 40 Yes?---So if you have a full sterile corridor in place the  
10:41:05 41 information obtained from a human source is disseminated by  
10:41:12 42 information report.  
10:41:13 43  
10:41:13 44 Yes?---It's what we call sanitised. The information in the  
10:41:20 45 information report should not allow the recipient of that  
10:41:24 46 information report to be able to identify whether or not  
10:41:26 47 the information in fact came from a human source or not.

10:41:30 1 Yes?---In this situation clearly that's not the case and in  
10:41:34 2 many handling situations in Victoria Police that's not the  
10:41:38 3 case. In high risk handling the ideal situation is that it  
10:41:46 4 would be a full sterile corridor, that's the position of  
10:41:49 5 Victoria Police today.  
10:41:49 6  
10:41:50 7 She was clearly a high risk?---Yes.  
10:41:51 8  
10:41:52 9 Informant?---Yes, but most handling doesn't occur in a full  
10:41:57 10 sterile corridor.  
10:41:58 11  
10:41:58 12 Yes?---And I note - so in a partial sterile corridor the  
10:42:03 13 investigators won't be handling the source but they will  
10:42:07 14 likely know the identity of that source. There's a number  
10:42:10 15 of reasons that that philosophy came into practice.  
10:42:13 16  
10:42:13 17 Yes?---And that was about removing the people that were  
10:42:16 18 handling the source from the people responsible for a  
10:42:20 19 particular investigation who are, you know, looking for a  
10:42:25 20 particular investigative outcome, search for the truth and  
10:42:28 21 coming to a decision whether there's evidence to charge.  
10:42:32 22  
10:42:32 23 Yes?---So in order to remove that from the people handling,  
10:42:38 24 that particular mind-set, we've got particular handlers who  
10:42:43 25 are not invested in the investigative outcome like the  
10:42:49 26 detectives would be.  
10:42:50 27  
10:42:51 28 I follow that. That would avoid the temptation on the part  
10:42:53 29 of investigators to push the investigation in perhaps an  
10:42:57 30 improper way - - -?---Or to deal with the human source or  
10:43:00 31 task them in a way that may not be appropriate. So we  
10:43:04 32 separate the two so that the tasking that's applied to a  
10:43:08 33 human source is always considering the matters of their  
10:43:11 34 safety, their deployment, you know, what's occurring.  
10:43:15 35  
10:43:15 36 Yes?---In difference to the investigators who are focussing  
10:43:22 37 on other aspects of an investigation, you separate the two.  
10:43:25 38  
10:43:25 39 And, indeed, to prevent the development of an improper  
10:43:28 40 relationship between a source who may well be and often is  
10:43:31 41 a criminal?---Yes. Victoria Police certainly had, by that  
10:43:34 42 stage had the review of the Drug Squad and they'd learnt  
10:43:39 43 some things out of that review in context of inappropriate  
10:43:41 44 relationships that had previously occurred with detectives  
10:43:45 45 and sources.  
10:43:45 46  
10:43:46 47 All right. So you'd say a partial sterile corridor isn't

10:43:52 1 akin to a partial pregnancy, it can operate as an effective  
10:43:59 2 use of a human source?---Absolutely. In fact there's  
10:44:01 3 jurisdictions in Australia who use no sterile corridor  
10:44:05 4 approach at all. We do, we have for some years. But on  
10:44:09 5 many occasions in Victoria we do not use a full sterile  
10:44:13 6 corridor, but in context of a high risk source in the  
10:44:18 7 present day, they can only be managed in the way of a,  
10:44:23 8 generally a full sterile corridor. That said, that is  
10:44:27 9 always the ideal situation. But unless the source was only  
10:44:35 10 recruited by the present high risk source team, then that  
10:44:43 11 normally would come from a referral from some other part of  
10:44:47 12 Victoria Police that was involved in it with an individual  
10:44:49 13 that may have already been registered as a source but the  
10:44:53 14 nature of their information changes.

10:44:54 15  
10:44:55 16 Right?---So despite that being the absolute desire of the  
10:45:01 17 way to manage the person, often there may be an individual  
10:45:06 18 other than the high risk source team or a number of  
10:45:09 19 individuals who is aware of the identity but that's on the  
10:45:15 20 basis of the whole process about how anyone becomes a human  
10:45:19 21 source in policing.

10:45:20 22  
10:45:20 23 Okay. In terms of the flow of information, is it the  
10:45:27 24 situation that the information ideally would be passed on  
10:45:33 25 by way of written information reports or typed out reports  
10:45:40 26 which are provided obviously redacted or sanitised, that's  
10:45:46 27 the appropriate way of doing it I assume?---That's the  
10:45:49 28 ideal way of doing it.

10:45:50 29  
10:45:51 30 Yes?---We note that in many uses of human sources and  
10:45:56 31 active investigations they are very dynamic and there are  
10:45:59 32 times when verbal information needs to be provided to  
10:46:04 33 investigators so that they become aware of relevant dynamic  
10:46:08 34 information and can act on that. If that is done then that  
10:46:13 35 should be the policy. I now make it clear that that should  
10:46:19 36 be cast into an information report so that it is captured  
10:46:23 37 post the transmission of that verbal information.

10:46:25 38  
10:46:26 39 If the exigencies require it may be necessary, you would  
10:46:32 40 say, for a verbal communication between the handler or the  
10:46:36 41 controller of a human source to the investigator?---That's  
10:46:40 42 right.

10:46:40 43  
10:46:41 44 But there should be a pretty clear note about what  
10:46:43 45 information was transferred?---Certainly the policies today  
10:46:47 46 require that. Without going back to the policies at that  
10:46:52 47 stage, I'm not sure whether it was in the policies, but

10:46:55 1 still my expectation, with the knowledge I have today, is  
10:46:58 2 that, yes, if you're passing information to an investigator  
10:47:05 3 then you should capture - if it's a verbal communication  
10:47:10 4 you should capture the information that was disclosed via  
10:47:13 5 that verbal communication.

10:47:14 6  
10:47:15 7 One of the important reasons for that is to determine,  
10:47:23 8 firstly, what information is provided but then, more  
10:47:26 9 importantly, what - provided by the source, but what  
10:47:29 10 information then goes and is utilised by the investigators.  
10:47:34 11 That's, if you like, the most significant part of the  
10:47:39 12 transaction, what information goes into that information  
10:47:43 13 pod, if you like, and then comes out of it?---Yes, that is  
10:47:47 14 exactly the case but if you look at the development of  
10:47:52 15 human source handling in Victoria Police that we know in  
10:47:56 16 context of policy positions, so the 1986 policy to where we  
10:48:02 17 currently operate, it's very clear to me that based on  
10:48:05 18 those policies, whilst I can sit here today and say it's  
10:48:10 19 absolutely appropriate that information was captured and -  
10:48:16 20 well if it was verbally transmitted, that it was  
10:48:19 21 subsequently captured and it's quite clear. What is also  
10:48:23 22 quite clear to me is that the policies at that period of  
10:48:26 23 time in the organisation were quite deficient in terms of  
10:48:29 24 what was occurring, so I also have the benefit of  
10:48:35 25 significant hindsight and reports prepared by Comrie,  
10:48:39 26 Kellam and other information at my disposal due to my  
10:48:45 27 national responsibilities and international enquiries I've  
10:48:49 28 undertaken. I don't think looking at policy and what was  
10:48:53 29 occurring back then, that those people in those positions  
10:48:57 30 at that time necessarily understood the importance that we  
10:49:00 31 understand today in the capture accurately of the  
10:49:03 32 information that is provided to investigators so that it  
10:49:06 33 can be forensically tracked through in terms of our  
10:49:10 34 obligations of disclosure as well.

10:49:14 35  
10:49:16 36 So you'd agree with the proposition that as far as the  
10:49:20 37 upshot of those various investigations that you've talked  
10:49:23 38 about and reviews, is that the large proportion of the  
10:49:26 39 information that was provided by Ms Gobbo was verbally  
10:49:29 40 disseminated to other work groups and not recorded in  
10:49:34 41 information reports?---That's not my understanding. My  
10:49:38 42 understanding is that there is quite a number of  
10:49:41 43 information reports that were disseminated but, again, I  
10:49:47 44 haven't had the luxury of looking at all of the  
10:49:53 45 information, all of the contact reports contained in the  
10:49:55 46 Loricated database and tracking them through in terms of  
10:49:58 47 information reports and where they ended up.

10:50:01 1 All right. So there was an Intelligence and Covert Support  
10:50:05 2 Command Operation Loricated completion report, are you  
10:50:09 3 aware of that?---I have seen it before, yes.  
10:50:12 4  
10:50:13 5 If I put to you that. The key findings at p.4, phase 2, "A  
10:50:29 6 large proportion of information provided by 3838 was  
10:50:32 7 verbally disseminated to other work groups and not recorded  
10:50:35 8 on information reports". That was the finding and you  
10:50:38 9 don't obviously take any issue with that?---I don't dispute  
10:50:42 10 that. That Operation Loricated went for quite some time.  
10:50:46 11 They examined every aspect of the contact reports that were  
10:50:49 12 made and their transmittal of any information from those  
10:50:56 13 contact reports through the submission of IRs or through  
10:51:00 14 verbal communication.  
10:51:01 15  
10:51:01 16 I'll come back to this in due course but is it your  
10:51:04 17 understanding that Operation Loricated was a comprehensive  
10:51:09 18 analysis of all of Ms Gobbo's relationship with Victoria  
10:51:16 19 Police?---No, that was absolutely not what it was. So it  
10:51:18 20 arose out of the Comrie report. I'm not sure which  
10:51:25 21 recommendation, I think it was recommendation 1 of Comrie,  
10:51:27 22 that they undertook the work that was relevant to the  
10:51:32 23 period of time where Ms Gobbo was managed by the Source  
10:51:35 24 Development Unit.  
10:51:35 25  
10:51:36 26 Yes. So do you say that Loricated was put together with a  
10:51:44 27 view to not examining the whole of the relationship in the  
10:51:49 28 period, I'm talking about the period from about 2004/5  
10:51:54 29 through to the period of about 2010, it wasn't designed to  
10:52:01 30 encapsulate all of that information but only a component of  
10:52:05 31 the relationship between Ms Gobbo and the police, that  
10:52:08 32 being the SDU relationship?---The way you've originally  
10:52:14 33 worded the question, my understanding was that you were  
10:52:17 34 asking me back from a period of, say, 1995 or some period  
10:52:23 35 earlier on.  
10:52:23 36  
10:52:24 37 Yes?---I think it was - without reference to the Comrie  
10:52:29 38 report again in my statement, it was designed to capture  
10:52:31 39 the period of time that she was registered as a human  
10:52:35 40 source by the Source Development Unit.  
10:52:37 41  
10:52:37 42 Right. You understand that during that period she was  
10:52:42 43 providing information not just - perhaps I'll ask you this.  
10:52:46 44 do you know whether she was providing information only to  
10:52:50 45 members of the SDU, to her handlers, or was she providing  
10:52:55 46 information to other members of Victoria Police outside of  
10:52:58 47 the SDU?---I assume she was only providing information to

10:53:04 1 the SDU. I have not been - I can't remember being told  
10:53:09 2 that she's provided information to others.  
10:53:11 3  
10:53:11 4 Yes?---I mean she may well have - she's a barrister, she's  
10:53:18 5 undertaking criminal trials and matters, she may well have  
10:53:22 6 spoken to other police people during that period of time  
10:53:24 7 and for whatever reason passed on information. But in  
10:53:29 8 terms of her source handling and the information that comes  
10:53:32 9 via that relationship, that should only have occurred via  
10:53:37 10 the handlers or the controlling arrangements as a human  
10:53:42 11 source.  
10:53:43 12  
10:53:43 13 Yes. Of course given the finding that I've referred to,  
10:53:50 14 that is a large amount of information that was passed on  
10:53:53 15 was verbally disseminated, you understand that it was being  
10:53:58 16 used by operations such as Posse, Purana?---Yes, that's  
10:54:06 17 correct.  
10:54:06 18  
10:54:06 19 Operation Petra when that developed?---Yes.  
10:54:09 20  
10:54:09 21 Is it your understanding that those who put together the  
10:54:11 22 Loricated process specifically excluded an analysis of the  
10:54:18 23 materials of Petra, Posse and Purana?---Yes, I - - -  
10:54:26 24  
10:54:26 25 And Briars?---Yes, I believe that's the case, that they  
10:54:29 26 were focused on a recommendation from Comrie.  
10:54:32 27  
10:54:32 28 Yes?---Which was recreating the human source file that  
10:54:37 29 related to Ms Gobbo.  
10:54:38 30  
10:54:39 31 All right. One assumes that if operations such as Briars,  
10:54:47 32 Petra, Purana and Posse are being run by the highest  
10:54:54 33 echelons of Victoria Police, including Assistant  
10:55:00 34 Commissioner of Crime Overland and very senior police  
10:55:03 35 officers, possibly in communication with the Chief  
10:55:08 36 Commissioner, Loricated effectively then would exclude the  
10:55:12 37 minutes of those operations notes created by those  
10:55:15 38 operations, et cetera, would that be right?---That would be  
10:55:17 39 right. As I said, it was designed, as I understand it, to  
10:55:22 40 meet a recommendation from the Comrie report.  
10:55:25 41  
10:55:25 42 Yes?---And on the basis of that recommendation it focused  
10:55:28 43 on recreating the Source Development Unit records that  
10:55:33 44 related to her management as a human source.  
10:55:35 45  
10:55:36 46 Right. Recommendation 1 of Mr Comrie was that, "Victoria  
10:55:42 47 Police reconstruct the full Interpose file for 3838 so that

10:55:49 1 to the fullest extent possible it presents as a complete  
10:55:54 2 factual, sequential and accountable record of the  
10:55:57 3 utilisation of this human source. This should also include  
10:56:03 4 the linking of all available records and corroborative  
10:56:03 5 media so that all material related to this file is securely  
10:56:09 6 and accountably retained on the one location in Interpose".  
10:56:14 7 One assumes that if you want to create to the fullest  
10:56:18 8 extent possible a complete factual sequential and  
10:56:22 9 accountable record of the utilisation of this human source,  
10:56:30 10 you're not going to confine it just to the SDU, but if the  
10:56:37 11 source is being utilised by Briars, Petra, Purana and Posse  
10:56:41 12 you'd need to incorporate those records, wouldn't you?---I  
10:56:44 13 wasn't the decision maker at the time.

10:56:45 14  
10:56:45 15 No?---So I'm not aware of how they read that recommendation  
10:56:49 16 in terms of the fullest extent possible. It does refer to  
10:56:56 17 Interpose obviously and the records that are contained  
10:56:59 18 therein. It is absolutely a relevant question but I'm not  
10:57:02 19 the decision maker at that point in time.

10:57:06 20  
10:57:06 21 No, I understand that. I wonder if we could put up  
10:57:13 22 VPL.0002.0001.0235. Just excuse me.

10:57:25 23  
10:57:25 24 (Discussion at Bar table.)

10:57:33 25  
10:57:33 26 I wonder if we could have a short break, Commissioner?

10:57:36 27  
10:57:36 28 COMMISSIONER: Yes, certainly.

10:58:07 29  
10:58:08 30 (Short adjournment.)

11:09:15 31  
11:09:15 32  
11:14:54 33 COMMISSIONER: Yes Mr Winneke.

11:14:55 34  
11:14:56 35 MR WINNEKE: Thank you, Commissioner. Assistant  
11:15:00 36 Commissioner, I'll do it this way, rather than putting a  
11:15:04 37 document up on the screen. What I want to suggest to you  
11:15:06 38 is that on the 25th of the 2nd 2013 there was an  
11:15:11 39 Intelligence and Covert Support Command review which was an  
11:15:19 40 organisation or at least a body which was in effect posing  
11:15:23 41 questions as to how the Loricated project or how far it  
11:15:27 42 would go, the ambit of it, and the question was raised  
11:15:32 43 whether the Petra and post Petra dealings with Ms Gobbo  
11:15:39 44 should be included in the scope of the project. There was  
11:15:47 45 a - that was on the 25th of the 2nd 2013, and the steering  
11:15:52 46 committee was asked to confirm whether the Petra, post  
11:15:58 47 Petra dealings were to be included. On 14 March 2013 a



11:16:03 1 decision was made by the steering committee which comprised  
11:16:08 2 the chairperson Detective Superintendent Gerry Ryan, who  
11:16:14 3 was standing in for Assistant Commissioner Stephen Fontana,  
11:16:23 4 Assistant Commissioners Emmett Dunne, Commander Doug Fryer,  
11:16:25 5 Superintendent Paul Sheridan and Acting Inspector Mark  
11:16:32 6 Galllott. The minutes were taken by Mark Galllott. The  
11:16:38 7 steering committee agreed the project team should not  
11:16:40 8 consider the Petra material and should only look at  
11:16:44 9 intelligence and dealings with the SDU and the time frame  
11:16:49 10 will include the transition period to Petra. I think I  
11:16:57 11 mentioned Purana and Posse and so forth but certainly it  
11:17:00 12 was confined insofar as that note's concerned, it was a  
11:17:06 13 clear decision not to include the Petra material. Would it  
11:17:09 14 be fair to say that the exclusion of that Petra material  
11:17:13 15 excluded from Loricated a considerable amount concerning  
11:17:22 16 the dealings by Victoria Police with Ms Gobbo?---That's  
11:17:27 17 correct, we now know that.

11:17:28 18  
11:17:30 19 Yes, okay. To come back to the flow of information. It's  
11:17:41 20 understood that material from Ms Gobbo was disseminated to  
11:17:47 21 various investigative units within Victoria such as those  
11:17:51 22 that I've mentioned, but it was also disseminated to  
11:17:55 23 investigators outside of Victoria. Are you aware of that?  
11:17:59 24 Outside of Victoria Police?---I can't recall that - - -

11:18:05 25  
11:18:05 26 Yes?--- - - - being a feature of some of the reports that  
11:18:07 27 I've read but it may well be.

11:18:09 28  
11:18:10 29 All right. I take it then that - well, the Royal  
11:18:16 30 Commission's attempting to ascertain the extent to which  
11:18:19 31 cases prosecuted by Federal authorities have been  
11:18:24 32 affected?---Yes, so there was a number of joint task forces  
11:18:27 33 in place at that time that involved Victoria Police and the  
11:18:32 34 Australian Federal Police. Absolutely I'm aware that  
11:18:35 35 information went into the joint environment.

11:18:37 36  
11:18:38 37 Right. Do you know, because the Commission's been asking  
11:18:43 38 for any information which concerns material from Gobbo  
11:18:54 39 which went to Australian Federal Police, do you know  
11:18:57 40 whether that's been provided to the Royal Commission  
11:18:59 41 yet?---I don't know that.

11:19:01 42  
11:19:01 43 Yes?---Whether it's been provided, no.

11:19:03 44  
11:19:06 45 Can you undertake to find out in the next little while  
11:19:09 46 whether that information has been provided and, if not, why  
11:19:14 47 not?---Absolutely.

11:19:15 1 All right?---I'm assuming that's a particular Notice to  
11:19:29 2 Produce?  
11:19:30 3  
11:19:33 4 If I can assure you that the Royal Commission is seeking  
11:19:36 5 that information?---Whether - I was going to come back and  
11:19:41 6 say - - -  
11:19:42 7  
11:19:43 8 Notice to Produce or otherwise - - - ?---No, no, my  
11:19:46 9 confirmation, Mr Winneke, was about my ease of going to a  
11:19:50 10 record that we would keep in context of a Notice to Produce  
11:19:53 11 to find out whether that information had been obtained and  
12 disclosed.  
13  
11:19:57 14 Yes?---If it hasn't been subject to a Notice to Produce I  
11:19:58 15 will absolutely endeavour to find that out and report it  
11:20:02 16 back.  
11:20:02 17  
11:20:02 18 Yes. Secondly, as to the question of whether or not people  
11:20:13 19 are in custody at present as a consequence of information  
11:20:19 20 provided by Ms Gobbo and whether those people might have  
11:20:22 21 had their cases affected, you're aware that the  
11:20:25 22 Commission's been asking for that information now for a  
11:20:28 23 considerable amount of time. Do you know whether that  
11:20:30 24 information is available and has it been  
11:20:33 25 provided?---Firstly, I'm not aware that the Royal  
11:20:35 26 Commission has asked for that information. If it's come  
11:20:37 27 via a Notice to Produce I don't have access to the Notices  
11:20:42 28 to Produce, other than I think I described yesterday, I  
11:20:45 29 think I've seen three notices to produce.  
11:20:47 30  
11:20:48 31 Yes?---And I can absolutely undertake that inquiry and  
11:20:53 32 provide that information back to the Royal Commission.  
11:20:56 33  
11:20:56 34 All right, thanks very much. If I can move on. You're  
11:21:03 35 aware that at or about the time that Ms Gobbo became a  
11:21:13 36 registered human source she was acting for a person by the  
11:21:19 37 name of George Peters who was what's been described as a  
11:21:24 38 cook of methamphetamines?---That's correct.  
11:21:26 39  
11:21:30 40 And she'd been representing him and providing information  
11:21:36 41 about him at the same time to her SDU handlers?---I'm not  
11:21:49 42 sure that I'm aware of that. I would need to go to either  
11:21:54 43 that section in my statement or - as I've indicated  
11:21:58 44 earlier, I haven't had access - sorry, I haven't looked at  
11:22:02 45 the source contact reports or the dissemination of IRs in  
11:22:08 46 context of Mr Peters.  
11:22:09 47

11:22:10 1 All right?---I note at 3.86 of my statement I do talk about  
11:22:14 2 Mr Peters in context of a hearing on 21 and 22 March.  
11:22:20 3  
11:22:20 4 Yes. In any event, that's the extent of your knowledge  
11:22:28 5 about George Peters, and unless it appears anywhere else in  
11:22:33 6 your statement that would be it, would it?---That's right.  
11:22:37 7 As I've indicated, there are many thousands and thousands  
11:22:42 8 of pages of records and it's impossible for me to be aware  
11:22:46 9 of all of the material in those records.  
11:22:48 10  
11:22:49 11 The reality - you're aware that he was the subject of the  
11:22:53 12 Kellam report, also the subject of the proceedings - - -  
11:22:58 13 ?---He was one of the seven case studies that were used to  
11:23:01 14 inform the Kellam inquiry.  
11:23:05 15  
11:23:06 16 Do you know about the circumstances of his arrest in April  
11:23:11 17 of 2006 or not?---No, I don't.  
11:23:14 18  
11:23:25 19 I want to ask you about a part of your statement in which  
11:23:48 20 you deal with Victoria Police's identification of  
11:23:50 21 shortcomings leading to non-disclosure and that's section 8  
11:23:57 22 of your statement starting at p.63. Do you have that  
11:24:17 23 there?---Yes, I do.  
11:24:18 24  
11:24:18 25 Question 6 asks you whether Victoria Police has identified  
11:24:21 26 any failures and shortcomings in the period from 93 through  
11:24:26 27 to the present in Victoria Police's processes and practices  
11:24:30 28 concerning information obtained from Ms Gobbo or other  
11:24:35 29 human sources with legal obligations which led to  
11:24:39 30 non-disclosure of relevant matters to accused persons,  
11:24:43 31 prosecuting authorities and/or courts. I think I asked you  
11:24:47 32 yesterday about, going back in history, your involvement as  
11:24:51 33 an informant, your understanding as to the importance of  
11:24:55 34 the preparation of briefs, presenting evidence in court and  
11:25:00 35 prosecuting the people who you charge?---Absolutely.  
11:25:02 36  
11:25:02 37 And you understand the importance of disclosure of  
11:25:05 38 information to prosecuting authorities and appropriate  
11:25:10 39 disclosure to accused persons so as they can properly  
11:25:17 40 appreciate the strengths and weaknesses of the case against  
11:25:20 41 them?---I am absolutely aware of that but there was  
11:25:23 42 certainly times in my career that I haven't been as aware  
11:25:26 43 as I am at the moment.  
11:25:27 44  
11:25:27 45 Yes?---So I know that when I undertook Detective Training  
11:25:31 46 School back in 1995 these matters were not really matters  
11:25:35 47 that were delved into or instructed within Victoria Police.

11:25:38 1 Is that right?---That's my belief, yes.  
11:25:41 2  
11:25:42 3 That there wasn't appropriate instruction to police  
11:25:44 4 officers about disclosure of information that might assist  
11:25:50 5 accused persons?---So what I'm saying is not that there  
11:25:54 6 wasn't appropriate, what I'm saying is that when I  
11:25:59 7 undertook those training courses back then it wasn't a  
11:26:02 8 strong feature.  
11:26:03 9  
11:26:03 10 Yes?---It was only, it would have only been a minor  
11:26:07 11 component of the training involved at that period of time  
11:26:10 12 in Victoria Police. I think the organisation through its  
11:26:14 13 learnings over a number of enquiries, including Comrie and  
11:26:17 14 Kellam, has come to a much better understanding of  
11:26:21 15 disclosure obligations.  
11:26:22 16  
11:26:22 17 Yes?---And through the passage of a number of different  
11:26:25 18 pieces of legislation covering disclosure obligations, that  
11:26:32 19 it is something that has matured over the years.  
11:26:35 20  
11:26:37 21 I suppose as a general proposition the question of  
11:26:40 22 disclosure is really central to this inquiry, isn't  
11:26:44 23 it?---Absolutely.  
11:26:45 24  
11:26:45 25 Because if there was disclosure at an earlier time about  
11:26:50 26 the involvement, and clearly there are issues about whether  
11:26:56 27 or not there should be disclosure?---Yes.  
11:26:57 28  
11:26:57 29 But if there was disclosure, for example, of the fact that  
11:27:02 30 information had been provided by Ms Gobbo in relation to  
11:27:07 31 her clients then these issues might have arisen a lot  
11:27:15 32 earlier than they have done?---That's correct.  
11:27:17 33  
11:27:17 34 And do you accept that - perhaps I'll ask you this. You've  
11:27:24 35 mentioned that back in 95 the questions of disclosure  
11:27:29 36 weren't given the degree of priority that they should have  
11:27:34 37 been given when it came to detective training courses, so  
11:27:37 38 the detectives weren't really trained on these issues by  
11:27:42 39 the trainers. What I'm suggesting to you is that not just  
11:27:50 40 in 95 but even later into the 2000s, into 2010 almost till  
11:28:01 41 now - perhaps I'll withdraw that and start again. There is  
11:28:06 42 still a cultural issue within Victoria Police about,  
11:28:10 43 concerning disclosure, do you accept that or not?---What I  
11:28:13 44 say is I don't think it's a cultural issue.  
11:28:15 45  
11:28:16 46 Yes?---I think it's a knowledge based issue. You'll note  
11:28:21 47 in some latter parts of my statement I cover some issues

11:28:25 1 relating to disclosure that I've discovered in some of the  
11:28:29 2 international jurisdictions.  
11:28:30 3  
11:28:30 4 Yes?---And some of their learnings on disclosure and their  
11:28:35 5 obligations have come about from a couple of significant  
11:28:39 6 failures in those international jurisdictions which have  
11:28:43 7 seen corroborative work or collective work with a number of  
11:28:48 8 other agencies and law enforcement agencies to ensure those  
11:28:51 9 disclosure obligations are captured, well understood and  
11:28:55 10 instructed to all police.  
11:28:58 11  
11:28:58 12 Yes?---Indeed a number of international jurisdictions now  
11:29:03 13 employ full-time disclosure officers as part of their  
11:29:08 14 investigative process just to ensure, with the Crown, that  
11:29:12 15 the obligations of disclosure are fully met.  
11:29:15 16  
11:29:19 17 Indeed you might know of and be referring to an inquiry in  
11:29:26 18 the United Kingdom recently arising out of improper  
11:29:29 19 disclosure in relation to a number of rape cases, is that  
11:29:32 20 something you're referring to?---I have some loose  
11:29:34 21 awareness of that.  
11:29:35 22  
11:29:35 23 Yes?---But there are other seminal cases that led to work  
11:29:40 24 in the UK and other jurisdictions around a really uplift  
11:29:46 25 and maturing of their capabilities in context of disclosure  
11:29:51 26 obligations.  
11:29:52 27  
11:29:54 28 Having examined the materials in this case do you take the  
11:29:58 29 view that there was an active resistance on the part of  
11:30:02 30 police officers to hand over information that ought to have  
11:30:09 31 been at least handed to prosecuting authorities concerning  
11:30:13 32 Ms Gobbo?---No, I don't take the view that there was active  
11:30:18 33 resistance in terms of a disclosure obligation. I think  
11:30:22 34 what I can - when I've looked at all these matters  
11:30:25 35 certainly contact reports are something that are not  
11:30:29 36 disclosed typically, but I don't know that the detectives  
11:30:34 37 involved in this took a view that it was active resistance  
11:30:38 38 against disclosure. That's not my view.  
11:30:40 39  
11:30:40 40 Right. Is that based upon what you've been told to enable  
11:30:46 41 you to prepare the statement?---Yes, and my knowledge of  
11:30:49 42 the organisation over 31 years.  
11:30:50 43  
11:30:51 44 Yes?---You know, I've never encountered anywhere that I've  
11:30:57 45 worked where there's been a knowledge to say we should and  
11:31:02 46 have an obligation to disclose certain information and we  
11:31:06 47 make a decision not to disclose that information. That's

11:31:10 1 not an environment that I've worked in and I've worked  
11:31:13 2 across a number of areas and managed a number of areas. I  
11:31:16 3 think what we're seeing here is an absolute failure at  
11:31:20 4 points in time to understand the obligations of disclosure  
11:31:26 5 rather than, as you put it, a direct working against those  
11:31:32 6 obligations.

11:31:33 7  
11:31:33 8 All right. In any event, if we examine your response to  
11:31:41 9 question 8 clearly from your answers that you've just given  
11:31:47 10 it's something that you've given considerable thought to, I  
11:31:50 11 take it?---Yes, I have.

11:31:51 12  
11:31:51 13 All right. In effect what you say is in answer to that  
11:31:58 14 question, that there were a series of events which  
11:32:02 15 occurred, and if I go to perhaps 8.2, you say, "Victoria  
11:32:22 16 Police did identify such failures and shortcomings. I set  
11:32:24 17 out below my understanding of when and how they were  
11:32:26 18 identified and it appears that it was the proceedings  
11:32:30 19 against former member of Victoria Police Paul Dale that  
11:32:33 20 triggered a series of events that led to Mr Comrie's  
11:32:36 21 review. Those events are set out below". And then you  
11:32:42 22 talk about in brief compass late 2003 Dale, Miechel and  
11:32:45 23 Hodson charged with drug trafficking, et cetera. At the  
11:32:50 24 time Dale is a detective at the MDID. Subsequently Hodson  
11:32:55 25 cooperates with police, makes a statement implicating  
11:32:59 26 Messrs Dale and Miechel. And then his murder occurs in  
11:33:04 27 2004, and obviously not forgetting his wife's murder. As a  
11:33:08 28 result the charges against Dale and Miechel were withdrawn.  
11:33:13 29 Subsequent to that there was a murder investigation carried  
11:33:19 30 out, and I took you to that briefly yesterday, including  
11:33:23 31 the fact that Mr Bezzina interviewed a number of people,  
11:33:29 32 including Ms Gobbo. Then in February of 2009 Mr Dale was  
11:33:35 33 charged with the murder of Mr and Mrs Hodson with another  
11:33:43 34 person by the name of Rod Collins. Ms Gobbo was listed as  
11:33:46 35 a witness and relevant statements provided as part of the  
11:33:53 36 hand-up brief, and Carl Williams was also to be a witness.  
11:34:01 37 Then you move on to the fact that, this is at 8.8 of your  
11:34:04 38 statement, that Carl Williams was murdered in prison on 19  
11:34:09 39 April 2010. What you don't mention is, in your statement,  
11:34:13 40 that there was a committal proceeding which occurred  
11:34:20 41 shortly prior to the murder of Carl Williams and that  
11:34:23 42 committal proceeding or during the course of committal  
11:34:26 43 proceeding there was considerable subpoena activity going  
11:34:36 44 on and the records of Victoria Police were subpoenaed and  
11:34:40 45 there was resistance to the production of records and there  
11:34:45 46 was a hearing at the committal about that and ultimately  
11:34:45 47 Victoria Police was ordered to produce a considerable

11:34:53 1 amount of material, including Petra material, Petra  
11:34:57 2 steering committee material. Are you aware of that?---No,  
11:35:00 3 I'm not.  
11:35:01 4  
11:35:01 5 And you weren't told about that?---No, in preparation for  
11:35:03 6 this I haven't been informed of that.  
11:35:05 7  
11:35:05 8 All right. It is understood that the VGSO was involved,  
11:35:17 9 Victorian Government Solicitor's Office was involved, are  
11:35:21 10 you aware of that?---No, I'm not.  
11:35:22 11  
11:35:23 12 And so you aren't in a position to say whether or not any  
11:35:27 13 advice was sought from the VGSO in 2010?---That's correct.  
11:35:31 14  
11:35:34 15 Were you given any instructions - I withdraw that. You  
11:35:39 16 don't know what instructions were given to the VGSO because  
11:35:43 17 you don't know about that interaction?---That's correct.  
11:35:45 18  
11:35:45 19 Okay. The following year Mr Dale was charged - just excuse  
11:36:17 20 me. Can I ask you this: what I suggest to you is that -  
11:36:25 21 perhaps I'll withdraw that and start again. What you say  
11:36:28 22 going through your analysis of when the failures of  
11:36:35 23 disclosure or these sorts of issues came about, you then  
11:36:38 24 talk about the fact that Dale was charged on 28 January by  
11:36:45 25 Detective Senior Sergeant Boris Buick, Victoria Police,  
11:36:48 26 with charges arising out of the Australian Crime Commission  
11:36:52 27 Act in which it was alleged that Mr Dale had told lies to  
11:36:58 28 the ACC and at that stage he subpoenaed materials?---That's  
11:37:01 29 correct.  
11:37:01 30  
11:37:02 31 And as a result of that there was an advice which you've  
11:37:06 32 referred to before which we've identified as the advice of  
11:37:10 33 Mr Maguire, the barrister, dated 4 October 2011, and you  
11:37:16 34 say that really was the first time these problematic issues  
11:37:21 35 came to light as far as you understand?---Yes, I believe  
11:37:25 36 the advice provided by Mr Maguire had addressed a number of  
11:37:32 37 issues regarding the issue of the subpoena.  
11:37:35 38  
11:37:35 39 Yes?---And that in that advice he raised an issue in  
11:37:39 40 context of disclosure obligations.  
11:37:42 41  
11:37:44 42 Just excuse me. Was it your understanding that members of  
11:38:20 43 the SDU, well prior to Mr Maguire drawing the attention of  
11:38:27 44 Victoria Police to concerns about disclosure, had expressed  
11:38:32 45 their view that there could well be considerable problems  
11:38:39 46 involved with Ms Gobbo providing information in which she  
11:38:42 47 was providing information as a legal practitioner?---Yes,

11:38:45 1 that was something that came out during the Kellam inquiry.  
11:38:48 2  
11:38:51 3 Were you aware that in about the period of about 2008, the  
11:38:59 4 latter part of 2008, there was in effect a tug of war  
11:39:03 5 between the SDU and Petra and Briars as to whether or not  
11:39:09 6 Ms Gobbo should remain within the SDU or should be brought  
11:39:13 7 out as a witness in the proceedings against Dale and  
11:39:16 8 possibly those persons charged or to be charged by the  
11:39:22 9 Briars Task Force?---Yes, I am aware of that and again that  
11:39:25 10 is - my awareness comes from the Kellam inquiry and the  
11:39:29 11 report subsequent to that.  
11:39:30 12  
11:39:30 13 Yes. Are you aware that in late 2008 issues that were  
11:39:44 14 raised by the members of the SDU were issues such as these:  
11:39:53 15 firstly - that is the transition from Ms Gobbo as being a  
11:39:57 16 human source to a witness - there would be issues as to her  
11:40:01 17 exposure as a source?---That's correct.  
11:40:03 18  
11:40:04 19 There were issues such as the risk to the organisation if  
11:40:08 20 her long-term role is exposed?---Correct.  
11:40:11 21  
11:40:12 22 A perception of her passing on privileged information and  
11:40:15 23 the police using the same?---Correct.  
11:40:18 24  
11:40:18 25 Was there a concern about the risk of a Royal Commission  
11:40:23 26 into source handling by the SDU as a result of the  
11:40:27 27 above?---Yes, there was.  
11:40:28 28  
11:40:30 29 Was there a concern about the possibility of the  
11:40:34 30 jeopardising of future prosecutions if her role was  
11:40:39 31 divulged, for example, the prosecutions of Mokbel, et  
11:40:42 32 cetera?---Yes, there was. I think all of that came to  
11:40:45 33 light during the 2015 Kellam inquiry.  
11:40:49 34  
11:40:51 35 I'll come to that. But was there also a concern about the  
11:40:55 36 possibility that it may leave convictions, previous  
11:40:58 37 convictions, open to being unsafe because of her  
11:41:01 38 involvement and because of the issue of legal professional  
11:41:07 39 privilege being breached or confidential obligations being  
11:41:12 40 breached?---That's my understanding, yes.  
11:41:14 41  
11:41:14 42 These were issues that were being raised by relatively  
11:41:17 43 junior members of the Police Force in the latter part of  
11:41:20 44 2008?---Yes, that's right.  
11:41:21 45  
11:41:22 46 Those issues were being raised to police officers who were  
11:41:26 47 at the very highest echelon of Victoria Police



11:41:31 1 Force?---That's correct.  
11:41:31 2  
11:41:32 3 Including people such as Assistant Commissioner of Crime  
11:41:39 4 Simon Overland?---That's correct.  
11:41:41 5  
11:41:41 6 And shortly prior to him becoming Chief Commissioner of  
11:41:44 7 police?---He became a Deputy Commissioner for a period of  
11:41:47 8 time and then subsequently a Chief Commissioner.  
11:41:49 9  
11:41:50 10 The effect of that is that as far as you know, and as far  
11:41:56 11 as your investigations are concerned, despite those  
11:41:58 12 concerns being raised by relatively lowly members of  
11:42:03 13 Victoria Police in late 2008, there was no legal advice  
11:42:06 14 sought by members of Victoria Police about this possible  
11:42:13 15 problem?---That's correct.  
11:42:19 16  
11:42:19 17 I take it from your position now you would say that is  
11:42:40 18 surprising?---I'm not possessed of the information that  
11:42:43 19 they had but my view is I'm very surprised that when you've  
11:42:48 20 got source handlers raising a significant issue, that issue  
11:42:55 21 isn't considered and acquitted through the obtaining of  
11:42:57 22 legal advice that's - if I'd been in that position you  
11:43:04 23 would want the legal advice to understand the issues that  
11:43:06 24 were being raised by the members of the Source Development  
11:43:12 25 Unit and consider what that advice would be.  
11:43:15 26  
11:43:16 27 Clearly the comments made by the members of the Source  
11:43:25 28 Development Unit, whether expressed directly in terms or  
11:43:27 29 otherwise, does indicate an awareness of the obligations  
11:43:31 30 for disclosure on the part of at least those  
11:43:35 31 officers?---That's right, yes.  
11:43:35 32  
11:43:39 33 And on one view suggesting that they hadn't been complied  
11:43:44 34 with?---Well I think the context of it being raised as it  
11:43:48 35 was examined in the Kellam inquiry was about their concerns  
11:43:53 36 around the risks to Ms Gobbo in the transfer of her from a  
11:44:00 37 human source to a witness, and then the consequential flow  
11:44:05 38 on effect of what that would mean in terms of risk to the  
11:44:09 39 organisation, reputation and risks and they were then  
11:44:13 40 outlined in that context. I'm not sure that those risks  
11:44:18 41 were raised in the context of the SDU members being fully  
11:44:23 42 aware of disclosure obligations.  
11:44:25 43  
11:44:26 44 I follow that. I understand the point that you make, I  
11:44:29 45 accept that. But putting that aside I suppose the point to  
11:44:33 46 an extent is irrelevant because what they did do was to  
11:44:38 47 highlight these issue?---Absolutely.

11:44:40 1  
11:44:40 2 For whatever reason they were highlighted?---Yes, they were  
11:44:44 3 highlighted. There's some great comments in the Kellam  
11:44:47 4 inquiry as to the level of concern the SDU members had and  
11:44:51 5 that they felt that those concerns weren't accepted by  
11:44:55 6 others.  
11:44:55 7  
11:44:56 8 Yes. Have you inquired or have Victoria Police, as far as  
11:45:20 9 you know, inquired as to why those obvious steps of  
11:45:23 10 obtaining legal advice weren't taken in early 2009?---I  
11:45:29 11 believe that was part of the Kellam inquiry that Mr Kellam  
11:45:34 12 asked questions about and sought information about.  
11:45:37 13  
11:45:38 14 Yes. That's Mr Kellam, but what about Victoria Police by  
11:45:47 15 way of sort of internal naval gazing, has that been  
11:45:53 16 done?---Listen, I'm unaware whether that specific exercise  
11:45:57 17 has been done but I do note that Victoria Police has  
11:46:01 18 considered all aspects of the Kellam report and has fully  
11:46:05 19 implemented all of the recommendations from the Kellam  
11:46:09 20 report and the way that these situations are managed in  
11:46:14 21 Victoria Police under our current both policy and practice  
11:46:18 22 are extremely different to the way they were managed back  
11:46:21 23 then.  
11:46:22 24  
11:46:22 25 All right. Now, the reason I'm asking you these questions  
11:46:27 26 is because you've responded to the failings with respect to  
11:46:32 27 the issues of disclosure. I just - and you've referred to  
11:46:38 28 Maguire, but I'm asking you about earlier red flags, if you  
11:46:42 29 like, where perhaps things were clearly brought to the  
11:46:49 30 attention of senior members of Victoria Police. I've asked  
11:46:53 31 you about the SDU members and you accept that that was a  
11:47:03 32 real opportunity to look into this and that opportunity was  
11:47:08 33 passed over?---That's correct.  
11:47:09 34  
11:47:11 35 Do you understand that in March of 2009 - I withdraw that.  
11:47:19 36 That in May of 2009 Detective Senior Sergeant Ron Iddles  
11:47:25 37 was tasked to take a statement from Ms Gobbo relating to  
11:47:30 38 her, or the alleged involvement in other police in the  
11:47:33 39 murder of Chartres-Abbott?---Yes, I believe Ron has made  
11:47:39 40 some public statements about that in recent times.  
11:47:42 41  
11:47:42 42 And the effect of those statements have been that he took  
11:47:47 43 the statement but he did not or he declined to have  
11:47:51 44 Ms Gobbo sign the statement?---That's correct.  
11:47:54 45  
11:47:55 46 And he also raised the question with senior members of  
11:48:01 47 Victoria Police that, to the effect that - I'll quote him.

11:48:09 1 I said, "You don't get this, I can tell you now this will  
11:48:14 2 cause a Royal Commission. I just couldn't get that they  
11:48:19 3 didn't understand the ramifications of deploying, employing  
11:48:25 4 and registering a solicitor". Albeit these are public  
11:48:30 5 statements by Mr Iddles, assuming that to be the case, if  
11:48:36 6 he did make those statements to senior members of Victoria  
11:48:40 7 Police at the time, again that would be another red flag,  
11:48:42 8 if you like, which perhaps should have indicated to those  
11:48:47 9 listening to Mr Iddles that perhaps something should have  
11:48:50 10 been sought by way of legal advice?---Yes, and these are  
11:48:55 11 senior members of Victoria Police so what I'm not familiar  
11:48:58 12 with is what other information they had, how they discussed  
11:49:01 13 it, how they determined not to seek legal advice, if they  
11:49:06 14 didn't, I don't know whether they did or didn't, but they  
11:49:11 15 are absolutely relevant questions.  
11:49:13 16  
11:49:13 17 Okay. At that stage Mr Overland was the Chief  
11:49:18 18 Commissioner?---I don't have the time line but he did  
11:49:21 19 become - - -  
11:49:22 20  
11:49:22 21 In March 2009 he was appointed Chief Commissioner?---Yes.  
11:49:26 22  
11:49:29 23 Do you understand that it was Simon Overland who instructed  
11:49:32 24 Mr Iddles to take the statement from Ms Gobbo?---I think  
11:49:35 25 that's what Mr Iddles has said. I don't have that personal  
11:49:39 26 knowledge.  
11:49:40 27  
11:49:40 28 Yes, all right. But in any event it's your belief that no  
11:49:43 29 legal advice at that stage was sought?---That's correct.  
11:49:46 30  
11:50:00 31 Are you aware that in April of 2010 Ms Gobbo issued legal  
11:50:09 32 proceedings against Victoria Police alleging that she was  
11:50:13 33 entitled to damages arising from the failure to protect her  
11:50:17 34 as a witness or similar?---I am aware that she took legal  
11:50:22 35 proceedings, I'm not aware of the precise date, but yes.  
11:50:25 36  
11:50:26 37 Are you aware that those proceedings settled confidentially  
11:50:30 38 in or about August of 2010?---Again, I'm not sure of the  
11:50:34 39 dates but I'm aware that they were settled confidentially.  
11:50:40 40  
11:50:42 41 As now appears to be the case, despite the fact that legal  
11:50:47 42 proceedings had been issued by Ms Gobbo, and assuming those  
11:50:51 43 proceedings to have continued from April through to August  
11:50:54 44 of 2010, it now appears that police were still obtaining  
11:51:00 45 information from Ms Gobbo in that period?---Could you just  
11:51:08 46 give me the dates of those legal proceedings again?  
11:51:12 47

11:51:12 1 April of 2010 issued, August of 2010 fairly expeditiously  
11:51:20 2 settled?---Certainly in my statement I cover a period of  
11:51:28 3 time that Ms Gobbo post her de-registration as a human  
11:51:34 4 source was engaged as a witness for Petra Task Force and  
11:51:38 5 the analysis of that period of time is still being  
11:51:40 6 undertaken. We know that at a point in time Chief  
11:51:45 7 Commissioner Simon Overland issued an instruction that no  
11:51:49 8 further engagement was to occur. I don't have it in front  
11:51:53 9 of me and I aren't possessed of the information.

11:51:57 10  
11:51:57 11 In your statement you say, "I've recently been informed".

11:52:02 12  
11:52:02 13 COMMISSIONER: Paragraph number please, Mr Winneke?

11:52:04 14  
11:52:05 15 MR WINNEKE: Paragraph 3.08, Commissioner. "I've recently  
11:52:08 16 been informed that after Ms Gobbo was de-registered she  
11:52:13 17 continued to provide information to Victoria Police from  
11:52:15 18 the period 4 March 2009 to 6 August 2010"?---That's  
11:52:22 19 correct.

11:52:22 20  
11:52:22 21 "I presently understand that (a) the information was  
11:52:26 22 provided to members of the Petra Task Force, that there  
11:52:30 23 were 207 contact reports and that information provided by  
11:52:36 24 Ms Gobbo was considered in various high level  
11:52:40 25 investigations and currently Task Force Landow is  
11:52:44 26 investigating the possibility that the information she  
11:52:48 27 provided may well have been used in relation to these  
11:52:52 28 investigations", which you've referred to in paragraph  
11:52:57 29 3.109 of your statement?---That's correct.

11:53:01 30  
11:53:01 31 Then you say, I think you've said that on or about the 27th  
11:53:06 32 of August 2010 then Chief Commissioner Simon Overland  
11:53:11 33 issued an instruction that Victoria Police was not to  
11:53:13 34 receive intelligence from Ms Gobbo?---That's correct.

11:53:17 35  
11:53:17 36 If it is the case that Ms Gobbo had at that time been  
11:53:23 37 involved in civil proceedings against Victoria Police you  
11:53:28 38 would agree that it would be fairly extraordinary that they  
11:53:31 39 were receiving information from her at the same time as she  
11:53:35 40 is suing them for considerable sums of money?---Yes, I  
11:53:39 41 agree that is a very odd situation.

11:53:41 42  
11:53:41 43 Do you know, and I'm not going to go into the settlement, I  
11:53:45 44 mean there's been reports of it, but it was a settlement,  
11:53:49 45 let's say this, favourable to Ms Gobbo?---I have, I have no  
11:53:56 46 personal knowledge of any details of that settlement other  
11:53:59 47 than information that has been speculated publicly about

11:54:02 1 it.  
11:54:02 2  
11:54:03 3 All right, okay. Do you know who was involved in providing  
11:54:09 4 instructions to Victoria Police - sorry, to Victoria  
11:54:15 5 Police's lawyers around that litigation and to the  
11:54:18 6 settlement of that litigation?---No, I have no awareness of  
11:54:21 7 that.  
11:54:22 8  
11:54:22 9 All right. Do you know whether or not Mr Overland was  
11:54:28 10 involved in the provision of instructions at all?---No, I  
11:54:32 11 don't.  
11:54:33 12  
11:54:36 13 Is that information that you're able to seek and provide to  
11:54:41 14 the Commission?---Yes, absolutely we can make those  
11:54:44 15 inquiries and we can provide that information to the Royal  
11:54:48 16 Commission once those inquiries are undertaken.  
11:54:50 17  
11:55:09 18 You've indicated that you don't know the details of that  
11:55:13 19 but one would assume that anyone providing instructions  
11:55:17 20 about Ms Gobbo's, or concerning the defence to the  
11:55:24 21 proceeding against Victoria Police, and the proceeding was  
11:55:27 22 against Simon Overland, Christine Nixon as individuals and  
11:55:32 23 also Victoria Police, one would assume that those providing  
11:55:36 24 instructions to defend that proceeding would have been  
11:55:41 25 concerned to provide as much information as they could  
11:55:46 26 about the involvement of Ms Gobbo with Victoria  
11:55:51 27 Police?---Sorry, I'm not sure I follow your question.  
11:55:53 28 Could you just ask that again, sorry?  
11:55:56 29  
11:55:56 30 Look, would you expect that the provision of instructions  
11:56:00 31 would have included all involvement or all Ms Gobbo's  
11:56:04 32 involvement with Victoria Police, that is not just as a  
11:56:07 33 witness but as an informer?---Listen I'm unable to answer  
11:56:13 34 that question because I do not know the basis of Ms Gobbo's  
11:56:17 35 action against Victoria Police as to what grounds gave rise  
11:56:22 36 to that action, what was cited in her action or indeed what  
11:56:27 37 was necessary for Victoria Police to consider in response  
11:56:29 38 to such an action.  
11:56:30 39  
11:56:30 40 Okay, fair enough. Can I return to a portion of your  
11:56:41 41 statement that I skimmed over yesterday at about 1.8 of  
11:56:47 42 your statement. At that time - I'm sorry. What you say  
11:57:09 43 there is that between 2010 and 2013 you were in the  
11:57:13 44 position of Detective Superintendent Divisional Manager of  
11:57:17 45 the State Intelligence Division, the SID and that was a  
11:57:21 46 division of the Intelligence and Covert Support Department,  
11:57:25 47 we discussed that yesterday?---That's correct.

11:57:27 1  
11:57:27 2 In effect that's the department that you're the head of  
11:57:30 3 now?---Yes, that's correct.  
11:57:31 4  
11:57:34 5 And in your position then you had a number of  
11:57:38 6 responsibilities which included the State Intelligence  
11:57:47 7 Unit, you were responsible for security and organised crime  
11:57:52 8 intelligence?---Yes.  
11:57:53 9  
11:57:53 10 The Intelligence Collection and Liaison Unit?  
11:58:02 11 Yes?---Sorry, yes, that's correct.  
11:58:02 12  
11:58:03 13 And the Human Source Management Unit?---That's correct.  
11:58:06 14  
11:58:08 15 Now the Human Source Management Unit was closely associated  
11:58:12 16 with the SDU, the Source Development Unit?---No. The Human  
11:58:19 17 Source Management Unit was a very small unit that reported  
11:58:21 18 to me.  
11:58:22 19  
11:58:22 20 Yes?---The Source Development Unit was in another division  
11:58:26 21 within the same Command.  
11:58:27 22  
11:58:27 23 Right?---Reporting to a different person. They were at a  
11:58:31 24 different location, different building. So that they are  
11:58:35 25 but one of the whole of Victoria Police that the Human  
11:58:41 26 Source Management Unit was responsible for that managed any  
11:58:43 27 source, human source in the State.  
11:58:45 28  
11:58:45 29 Yes, I follow what you're saying. So in effect the Human  
11:58:50 30 Source Management Unit was an overarching management unit  
11:58:55 31 which managed human sources? No?---We need to be careful  
11:59:01 32 with the word management in context. I don't want to set  
11:59:04 33 up an idea that they had some overarching management of  
11:59:08 34 everything like what occurs - well, like where we are  
11:59:12 35 today.  
11:59:12 36  
11:59:12 37 Yes?---Back then it was much more almost a registry  
11:59:17 38 function of the organisation to make sure things were  
11:59:20 39 centralised.  
11:59:21 40  
11:59:21 41 Yes?---That information was all brought into the one  
11:59:25 42 location with regard to what was happening with human  
11:59:30 43 sources across the organisation.  
11:59:32 44  
11:59:32 45 Yes, I follow that. Every person who was registered as a  
11:59:35 46 human source, whether it be by the SDU or otherwise, was  
11:59:41 47 recorded and registered by the Human Source Management

11:59:46 1 Unit?---That's correct.  
11:59:46 2  
11:59:47 3 So what you're saying is there was no active management in  
11:59:52 4 the sense that there was no oversight of what the handlers  
11:59:56 5 were doing but the handlers were handling a person who was  
12:00:01 6 registered by the Human Source Management Unit?---That was  
12:00:05 7 registered at, yes.  
12:00:06 8  
12:00:06 9 At?---The Human Source Management Unit, that's correct.  
12:00:09 10  
12:00:10 11 If the SDU wanted to register a person, that registration  
12:00:17 12 would have to be signed off by the Human Source Management  
12:00:20 13 Unit?---It would be - yes. So at that point in time the  
12:00:25 14 Superintendent, whoever it was, would be the Central Source  
12:00:30 15 Registrar for that period of time.  
12:00:32 16  
12:00:32 17 Yes?---And the Human Source Management Unit would acquit  
12:00:37 18 the responsibilities of the Central Source Registrar in  
12:00:41 19 that process of approving or not approving any  
12:00:44 20 registration.  
12:00:45 21  
12:00:46 22 Okay. So in terms of the ultimate authority to register a  
12:00:51 23 person, where did that ultimate authority reside?---So for  
12:01:00 24 any human source the ultimate authority should - well, no,  
12:01:06 25 no, I'll be careful because it's changed during periods of  
12:01:09 26 time.  
12:01:09 27  
12:01:09 28 I'm talking about back in - all right, let's talk about the  
12:01:13 29 time that she was registered?---Yes, 2005 at the start.  
12:01:16 30  
12:01:17 31 2005?---So that's the time when the registration is  
12:01:19 32 approved.  
12:01:20 33  
12:01:20 34 Yes?---So whoever - 2005, so the State Intelligence  
12:01:26 35 Division is alive then. Whoever the Superintendent in  
12:01:30 36 charge of that division at that time would have been, it  
12:01:33 37 wasn't called the Centre Source Registrar, it had another  
12:01:38 38 name at that time, would have been responsible for the  
12:01:40 39 approval of the registration. What I'm not so sure of what  
12:01:43 40 the policy states at that time because it has had many  
12:01:48 41 updates, as you're aware, as to whether that was a  
12:01:51 42 delegable decision-making process to some, to members  
12:01:56 43 operating in the Human Source Management Unit, I think  
12:01:59 44 there was about three or four staff that comprised that  
12:02:02 45 unit, or whether it was a personal decision of the  
12:02:05 46 Superintendent in charge of the then State Intelligence  
12:02:09 47 Division.

12:02:09 1  
12:02:10 2 All right then. Just whilst we're talking about that, a  
12:02:13 3 considerable part of your statement relates to policies and  
12:02:18 4 procedures?---It does.  
12:02:18 5  
12:02:19 6 As they've changed over the years. We understand that  
12:02:22 7 aspects of that part of your statement need to be reviewed  
12:02:26 8 as to potential public interest immunity?---That's correct.  
12:02:28 9  
12:02:29 10 Once that matter has been resolved there'll be a good deal  
12:02:34 11 more questioning about that, particularly as the Commission  
12:02:37 12 returns to policies and procedures and I take it you're  
12:02:41 13 happy to come back before the Commission at that time and  
12:02:44 14 to answer questions about that?---Absolutely.  
12:02:46 15  
12:02:46 16 Thank you. Now I won't deal with that now but I do want to  
12:02:50 17 focus on this aspect of it. What you say is that during  
12:02:53 18 the period of 2010 to 2013 you were the Detective  
12:02:59 19 Superintendent Div Manager of the SID. Can you say at that  
12:03:05 20 stage whether the SID had an overarching, particularly  
12:03:09 21 insofar as your management of the Human Source Development  
12:03:14 22 Unit, an obligation with respect to signing off on human  
12:03:19 23 sources?---Yes. So they would be part of the process that  
12:03:22 24 provided the approval to register a human source. Not all  
12:03:26 25 of that would have included the divisional manager, so  
12:03:30 26 myself during the period of late 2010 until 2013 when I was  
12:03:34 27 that person, some of that would have been devolved to the  
12:03:37 28 decision making of the unit itself - sorry, I just was  
12:03:45 29 distracted then. And then some of the decision making  
12:03:49 30 would have been mine personally as the Central Source  
12:03:54 31 Registrar, no doubt based on risk, that I would have made  
12:03:57 32 the personal decision to approve a registration or to not  
12:04:00 33 approve a registration.  
12:04:01 34  
12:04:02 35 In any event at that stage the SDU was still in existence  
12:04:11 36 during your period at the SID?---Yes, so the covert  
12:04:15 37 services review, which was shortly after my commencement at  
12:04:21 38 that location, started and they were in existence still.  
12:04:25 39  
12:04:26 40 At that stage?---When I started, that's right.  
12:04:28 41  
12:04:28 42 And they remained in existence until about the time that  
12:04:31 43 you left in 2013. We'll come to this in due course?---Yes.  
12:04:35 44  
12:04:36 45 What you say in your statement is that at various times  
12:04:40 46 during your period as the Detective Superintendent, as is  
12:04:44 47 often the case within the Victoria Police, you're given an



12:04:49 1 upgrade or an acting position?---Yes, you'll often, if  
12:04:55 2 someone above you is away for a particular reason there are  
12:04:59 3 delegations and responsibilities that sit at a higher  
12:05:04 4 level, that someone will be upgraded or allocated those  
12:05:07 5 higher duties to ensure those delegable functions remain  
12:05:12 6 and occur.  
12:05:13 7  
12:05:13 8 During the period from 2010 to 2013 you were at various  
12:05:20 9 times delegated the responsibility to be the Acting  
12:05:27 10 Assistant Commissioner responsible for the Intelligence and  
12:05:30 11 Covert Support Department?---That's correct.  
12:05:31 12  
12:05:32 13 You were acting in the role that you're currently sitting  
12:05:34 14 in now?---That's correct.  
12:05:35 15  
12:05:36 16 Which means that you have overall responsibility for the  
12:05:38 17 various organisations underneath you?---That's right, yes.  
12:05:42 18  
12:05:45 19 What you say - perhaps I can ask you this. Do you recall  
12:05:51 20 the times and dates at which you were acting at that  
12:05:56 21 stage?---Listen I don't off the top of my head. They're  
12:05:59 22 absolutely available. We have a system that records any  
12:06:02 23 upgrading and so those dates are available.  
12:06:05 24  
12:06:05 25 Okay. But off the top of your head you can't recall but  
12:06:11 26 they can be provided?---Generally it was for a two week  
12:06:14 27 period or something like that I would be upgraded. It was  
12:06:19 28 for no long period of time, it was generally just a week or  
12:06:22 29 two at various points in time.  
12:06:23 30  
12:06:23 31 Who was the person occupying the Assistant Commissioner  
12:06:27 32 role at that stage?---Assistant Commissioner Jeff Pope was  
12:06:30 33 the AC.  
12:06:32 34  
12:06:32 35 Jeff Pope, all right. What you say in your statement is,  
12:06:37 36 "Despite being upgraded to Acting Assistant Commissioner  
12:06:41 37 during this period of time I received no handover briefing  
12:06:44 38 that related to the Comrie review", correct?---That's  
12:06:49 39 correct.  
12:06:49 40  
12:06:50 41 You now know that during that period that you were acting  
12:06:54 42 in that role and the period that you were the Detective  
12:07:00 43 Superintendent, the Comrie review was being  
12:07:05 44 undertaken?---Yes.  
12:07:06 45  
12:07:06 46 You weren't in effect read into that, you weren't told  
12:07:09 47 about that?---No.

12:07:10 1  
12:07:10 2 And you received no handover briefing?---That's correct.  
12:07:13 3  
12:07:14 4 You did have at that point in time some awareness that a  
12:07:17 5 highly protected matter was subject to a review but you  
12:07:22 6 say, "However former Assistant Commissioner Jeff Pope had  
12:07:26 7 informed me that he would maintain carriage of that" during  
12:07:30 8 the periods that you were upgraded?---That's correct.  
12:07:32 9  
12:07:36 10 That would have been unusual, wouldn't it?---No, not at  
12:07:39 11 all. There are, even when I am absent from my role for a  
12:07:45 12 number of reasons and someone is upgraded in my role, there  
12:07:49 13 are absolutely certain matters that I maintain for a number  
12:07:53 14 of reasons, for continuity in decision making because I've  
12:07:58 15 already been part heard or already part made a decision in  
12:08:03 16 something. It is absolutely appropriate that I would  
12:08:06 17 maintain that and not delegate that or hand it over to  
12:08:11 18 someone performing my role for a period of time.  
12:08:14 19  
12:08:14 20 It may well depend on the period of time that you need to  
12:08:18 21 delegate the responsibility?---Absolutely. If we're  
12:08:20 22 talking a number of months, if I was away and I don't have  
12:08:24 23 that luxury unfortunately, then if it was a longer period  
12:08:28 24 time you would need to put in other arrangements or  
12:08:31 25 delegate that responsibility but that's not been the case  
12:08:34 26 for myself. I'm only ever away for a week or two at best  
12:08:38 27 and I maintain responsibility for some matters, not  
12:08:42 28 everything is delegated to the person who steps up and does  
12:08:45 29 the higher duties.  
12:08:47 30  
12:08:47 31 So the words you used, despite being upgraded doesn't  
12:08:53 32 suggest that you believe you should have been told about  
12:08:57 33 it, it was simply making a point that you weren't aware of  
12:09:01 34 it?---I'm making the point that I'm not aware or wasn't  
12:09:05 35 aware then of what I'm aware of today.  
12:09:17 36  
12:09:17 37 I follow that?---Yes.  
12:09:18 38  
12:09:18 39 It was during that period that the review I think you  
12:09:21 40 mentioned before, the covert services review was being  
12:09:25 41 carried out?---That's correct.  
12:09:27 42  
12:09:27 43 And that was commenced I think in 2012 or - - - ?---March  
12:09:33 44 2012.  
12:09:33 45  
12:09:34 46 March 2012.  
12:09:35 47

12:09:35 1 COMMISSIONER: Can I just ask before you go on, Mr Winneke,  
12:09:38 2 to that topic, so former Assistant Commissioner Pope, do  
12:09:43 3 you remember whether he was actually on leave or whether he  
12:09:45 4 was acting in another position at that time?---Listen  
12:09:50 5 there's a number of periods that I was upgraded to that  
12:09:53 6 role that both of those scenarios occurred. So there was  
12:09:57 7 periods of when he was away from the organisation on annual  
12:10:01 8 leave and a period, at least one occasion I recall where he  
12:10:06 9 was upgraded to Acting Deputy Commissioner and I was  
12:10:10 10 performing that role of Assistant Commissioner.

12:10:12 11  
12:10:13 12 You will provide more detail about that later on?---Yes, I  
12:10:18 13 can provide that detail. No issue.

12:10:18 14  
12:10:19 15 Thank you Mr Paterson. Yes Mr Winneke.

12:10:20 16  
12:10:23 17 MR WINNEKE: This review was called the covert services  
12:10:26 18 review. It was a review carried out by the Intelligence  
12:10:32 19 and Covert Support Command?---Yes, that's correct.

12:10:34 20  
12:10:36 21 And I won't put it up on the screen but do you accept that  
12:10:42 22 in March of 2012 Assistant Commissioner Jeff Pope,  
12:10:47 23 Intelligence and Covert Support Command commissioned a  
12:10:51 24 review into the Covert Services Division. The purpose of  
12:10:55 25 the review was to examine the structure of the CSD to  
12:11:01 26 ensure that the Division was best placed for future  
12:11:01 27 challenges within the operational environment"?---That's  
12:11:06 28 correct.

12:11:06 29  
12:11:07 30 And part of this review was a review into the SDU?---I'm  
12:11:16 31 now aware of that, I wasn't at the time. The way the  
12:11:20 32 review was commenced in terms of its structure and Terms of  
12:11:26 33 Reference was looking at that whole of the division of  
12:11:28 34 which the SDU was a part. So there were themes to the  
12:11:31 35 review.

12:11:32 36  
12:11:33 37 Yes, okay. I mean you were on the committee, you were on  
12:11:39 38 the steering committee. The review steering committee was  
12:11:42 39 chaired by Assistant Commissioner Pope and comprised of  
12:11:46 40 Detective Superintendents Biggin, Sheridan and Paterson  
12:11:50 41 from the ICSC?---Yes, I certainly was. I actually only  
12:11:56 42 recall attending one meeting of the steering committee. At  
12:11:59 43 that same time I was undertaking what was a much more  
12:12:03 44 complex review of my own division and my involvement in the  
12:12:09 45 CSD review was actually quite limited to really two  
12:12:13 46 elements. One element related to maximum time in position,  
12:12:17 47 so a concept of tenure over high risk positions, and the

12:12:21 1 other element of the review was about the intelligence  
12:12:25 2 management processes that could be in place across the more  
12:12:31 3 covert parts of that division and the surveillance services  
12:12:36 4 division and that was my involvement, not at the steering  
12:12:40 5 committee level but in a number of other meetings outside  
12:12:43 6 the steering committee to discuss that.  
12:12:46 7  
12:12:46 8 All right?---It's in the preparation of this statement that  
12:12:48 9 I've had the opportunity to read that Covert Services  
12:12:54 10 Division review report and that is my first opportunity  
12:12:57 11 that I've ever seen that report.  
12:12:59 12  
12:13:00 13 All right. Did you attend the first meeting of the  
12:13:06 14 steering committee?---I believe it was the first meeting,  
12:13:09 15 yes.  
12:13:09 16  
12:13:11 17 At that meeting do you recall whether Mr Pope made any  
12:13:18 18 declarations of interest in relation to Ms Gobbo?---I don't  
12:13:27 19 recall but I feel that if he had made such a declaration  
12:13:31 20 that I would recall.  
12:13:32 21  
12:13:33 22 Yes?---So I would say that that is highly unlikely to have  
12:13:36 23 occurred.  
12:13:36 24  
12:13:37 25 Right. Do you understand that he had, from your statement  
12:13:43 26 you've spoken about the fact that he had certainly  
12:13:47 27 registered Ms Gobbo previously as a human source and had  
12:13:51 28 some dealings with her?---Yes, that's something I now know  
12:13:54 29 but wasn't possessed of that information at that point in  
12:13:57 30 time.  
12:13:57 31  
12:13:58 32 At that point?---Yes.  
12:13:59 33  
12:14:00 34 So clearly it wasn't something that he raised at that stage  
12:14:03 35 as far as you're concerned?---No.  
12:14:04 36  
12:14:11 37 The upshot of the review was that there were some fairly  
12:14:17 38 serious criticisms of the work of the SDU prior obviously  
12:14:25 39 to the steering committee's report?---I am now aware of  
12:14:29 40 that, yes.  
12:14:29 41  
12:14:30 42 You say that you didn't at the time receive a copy of the  
12:14:33 43 review that you were involved in on the steering  
12:14:38 44 committee?---I have no recollection of receiving a copy and  
12:14:41 45 when I read it recently it, in my mind, this is the  
12:14:46 46 recently, was the first time I've ever seen such a report.  
12:14:50 47

12:14:50 1 Yes?---As I've explained in my statement, I was also doing  
12:14:54 2 a much more complex, what I say is a much more complex  
12:14:58 3 review for a number of reasons over my own division at that  
12:15:02 4 same point in time. So despite being part of what was  
12:15:05 5 called the steering committee I was certainly a member of  
12:15:07 6 the management team of the Intelligence and Covert Support  
12:15:12 7 Command as one of the Superintendents.  
12:15:13 8  
12:15:13 9 Yes?---But had very little involvement in the actual  
12:15:20 10 review, the covert services review.  
12:15:22 11  
12:15:25 12 The review was handed down, at least it's signed off by  
12:15:29 13 Assistant Commissioner Jeff Pope and Commander Doug Fryer  
12:15:34 14 on 31 January 2013?---Yes, that's right.  
12:15:38 15  
12:15:39 16 Were you still in your position at that stage at the  
12:15:42 17 SID?---Yes, I believe I was.  
12:15:44 18  
12:15:44 19 When did you leave and transfer to Frankston?---I would  
12:15:48 20 need to confirm it. I think it was later in 2013 that I  
12:15:52 21 left SID and went to Frankston. So I certainly recall  
12:15:56 22 being in that position when it became public within the  
12:16:02 23 organisation that there'd been a decision to close the  
12:16:07 24 Source Development Unit.  
12:16:09 25  
12:16:12 26 Were you not provided or didn't you seek a copy of the  
12:16:15 27 review which you'd been a participant in to see why that  
12:16:19 28 was the case?---I think there had been broad discussions at  
12:16:23 29 that point in time within the command that a decision had  
12:16:25 30 been made that felt that there was a number of concerns  
12:16:30 31 with the running and management of that particular unit and  
12:16:35 32 that because of those concerns a decision had been made by  
12:16:39 33 the then Chief Commissioner to disband the unit.  
12:16:43 34  
12:16:44 35 Can I just take you to a couple of points in this report  
12:16:50 36 which you say you've now seen. Before I go through it, are  
12:17:11 37 you able to say who it was on that committee who carried  
12:17:16 38 out the report - sorry, the investigations in relation to  
12:17:19 39 the SDU component of the review?---I believe it was  
12:17:25 40 Superintendent Sheridan and Commander Fryer that took the  
12:17:28 41 carriage of those components.  
12:17:30 42  
12:17:30 43 Do you know whether Mr Pope had any involvement?---He was  
12:17:36 44 the Assistant Commissioner, I'm not sure what his  
12:17:39 45 involvement in those elements of the review were but I'm  
12:17:42 46 certainly aware that Sheridan and Fryer took the lead in  
12:17:48 47 that component.

12:17:49 1  
12:17:52 2 The report says at point 1, "The SDU was created after a  
12:17:57 3 2003 pilot and initially the officer-in-charge was a Senior  
12:18:02 4 Sergeant. Some years later this position was elevated to  
12:18:04 5 Inspector. The SDU has always been over sighted by a  
12:18:09 6 Superintendent from ICSC. Ironically MTIP was in the  
12:18:18 7 initial position description but when advertised they were  
12:18:23 8 left out and never been reviewed". What's MTIP?---That's  
12:18:28 9 what I referred to earlier as maximum time in position, so  
12:18:33 10 like a tenure consideration.  
12:18:35 11  
12:18:35 12 And MTIP being an issue which you were looking closely at  
12:18:41 13 but in another area?---Yes, I was heavily involved doing my  
12:18:45 14 own review and it was very relevant for me for a number of  
12:18:49 15 reasons that it was something that should exist in the  
12:18:52 16 position descriptions in my review so that you time limit  
12:18:55 17 someone's opportunity to stay in a particular position. So  
12:19:00 18 based on a number of years that their maximum time in that  
12:19:05 19 position would occur and that they would be redeployed  
12:19:10 20 somewhere else in the organisation.  
12:19:12 21  
12:19:13 22 Do you know whether the investigation or the review itself  
12:19:17 23 sought contributions from members of the SDU, handlers and  
12:19:24 24 so forth?---Listen I don't know exactly, I would assume it  
12:19:28 25 did, it would have. You normally involve the staff in  
12:19:31 26 review processes, in both communications and - you may not  
12:19:37 27 receive actual submissions. But typically reviews of that  
12:19:40 28 sort, given I was doing one at the same time, involved  
12:19:44 29 discussions with the Police Association of Victoria and the  
12:19:48 30 CPSU if you had public servant staff working in those  
12:19:53 31 locations as well. But the enterprise bargaining and the  
12:19:58 32 public sector agreement at that stage required those sorts  
12:20:01 33 of discussions with representative bodies as well.  
12:20:05 34  
12:20:05 35 Were these sorts of reviews carried out in a formal way or  
12:20:09 36 an informal way, do you know?---I certainly know my review,  
12:20:15 37 whilst it wasn't subject, my own review wasn't subject to a  
12:20:19 38 steering committee component, as the divisional manager I  
12:20:22 39 was leading it. I had assistance from our HR areas in  
12:20:27 40 Victoria Police, industrial relation areas and as that  
12:20:30 41 review progressed you involve in a number of discussions in  
12:20:37 42 determining where you might land on a particular issue and  
12:20:39 43 then that is formulated into your final report that goes up  
12:20:43 44 through a chain of command and gets that level of approval  
12:20:47 45 or sign off for then implementation.  
12:20:50 46  
12:20:50 47 It is understood that as part of this review there was

12:20:54 1 information or evidence taken from, I think it was a  
12:20:57 2 psychologist, which concerned the consequences of long-term  
12:21:05 3 involvement in a particular unit and the ramifications of  
12:21:09 4 that good, bad or indifferent, is that your  
12:21:13 5 understanding?---Yes, that's correct.

12:21:13 6  
12:21:13 7 And the view was taken that if you have a particular unit  
12:21:18 8 such as the SDU which is in effect divorced from, I suppose  
12:21:21 9 the main structures if you like, for want of a better  
12:21:25 10 description of Victoria Police there develops a degree of  
12:21:29 11 detachment from the police structures and disciplines and  
12:21:32 12 so forth. Is that something that was recognised?---Yes,  
12:21:36 13 that's absolutely correct.

12:21:38 14  
12:21:42 15 Was the view taken that there had become a degree of  
12:21:48 16 disconnection already by the time of this review from  
12:21:52 17 Victoria Police hierarchies that had developed within the  
12:21:56 18 SDU?---Yes, that I believe is in the final report.

12:22:00 19  
12:22:01 20 And it was reported that there was a culture of risk taking  
12:22:04 21 which had developed based on ego rather than risk versus  
12:22:09 22 reward. If that was a finding, what does that mean?---I'm  
12:22:15 23 not sure exactly what it means but it sounds like what that  
12:22:22 24 is suggesting is that, it's suggesting that members of that  
12:22:26 25 particular unit were really indicating that their views  
12:22:32 26 were the dominant or stronger view rather than  
12:22:35 27 understanding the broader needs of the organisation on a  
12:22:38 28 particular issue.

12:22:39 29  
12:22:40 30 So indeed it goes on to say, "Managerial intervention is  
12:22:45 31 essential to ensure effective risk management. In the last  
12:22:48 32 two and a half years there has been at least 20 occasions  
12:22:50 33 when significant management intervention has been required  
12:22:53 34 to challenge, mitigate or extinguish risk. In all of these  
12:22:58 35 instances the SDU should have recognised the risk and  
12:23:01 36 acted. On occasion when they did act it wasn't to mitigate  
12:23:03 37 risk but to suborn senior management and perform 'work  
12:23:08 38 arounds' to achieve their desired outcome. Not  
12:23:12 39 management's and not the organisation's. These incidents  
12:23:16 40 have been separately documented by Superintendent  
12:23:19 41 Sheridan". Can you interpret that finding for the  
12:23:22 42 Commission?---I think it's self-evident the words that are  
12:23:25 43 used.

12:23:26 44  
12:23:26 45 What are "work arounds"?---That you're not following, I  
12:23:30 46 think what that means is that you're not following whatever  
12:23:33 47 is either in policy or accepted practice on a particular

12:23:37 1 issue, that you're working outside of policy or practice.  
12:23:41 2  
12:23:41 3 Right. Point seven of the report indicates that, "It's  
12:23:55 4 apparent from the incidents requiring management  
12:23:58 5 intervention that SDU staff" and thereafter a number of  
12:24:02 6 points are set out, "(a) attempted to suborn the authority  
12:24:06 7 of management; (b) attempted to coerce other areas of the  
12:24:07 8 organisation to influence SDU management to achieve their  
12:24:10 9 desired outcome; (c) do not consider the criminal activity  
12:24:15 10 of CHIS", I assume that's - - - ?---Covert human  
12:24:20 11 intelligence source.  
12:24:21 12  
12:24:21 13 "Do not consider the Victoria Police investigative  
12:24:24 14 requirements; (e) consider the covert human intelligence  
12:24:29 15 source protection from disclosure of criminal offending  
12:24:30 16 higher than the Rule of Law and Rule of Justice. Refuse to  
12:24:35 17 follow protocol in contacting potential or unregistered  
12:24:40 18 CHIS; exposing the CHIS, the unit, the organisation to risk  
12:24:45 19 and refuse to accept the decision of the local source  
12:24:50 20 registrar, LSR, on several occasions, initiating hostility  
12:24:52 21 towards the office in charge, SDU by staff". A further  
12:25:01 22 finding was made at point ten, "It is the finding of the  
12:25:06 23 review that the structure of the SDU should not be  
12:25:08 24 sustained and whilst it continues to exist it will only be  
12:25:12 25 a matter of time before the unit unduly exposes CHIS or the  
12:25:17 26 organisation to significant risk that cannot be mitigated".  
12:25:21 27 Do you understand that that was a finding?---Yes, that's  
12:25:23 28 correct.  
12:25:23 29  
12:25:24 30 Can I ask you this, it appears that Detective  
12:25:29 31 Superintendent Biggin was a part of this review?---Yes, I  
12:25:35 32 think that's right.  
12:25:35 33  
12:25:36 34 Now Detective Superintendent Biggin was the Superintendent  
12:25:41 35 who back in 2008 was in effect in charge of the SDU, is  
12:25:47 36 that right?---Yes, he was the divisional manager over a  
12:25:51 37 division at that particular time that had responsibility  
12:25:53 38 for that unit.  
12:25:54 39  
12:25:54 40 And he was the one who went to a meeting with the upper  
12:26:04 41 echelons of the Victoria Police Force, including Simon  
12:26:07 42 Overland, et cetera, and took with him the concerns of the  
12:26:11 43 more junior members of the SDU to the effect that I  
12:26:15 44 outlined to you before about the concern about the  
12:26:17 45 potential for a Royal Commission, et cetera, et cetera, do  
12:26:20 46 you agree with that?---I'm not 100 per cent sure that I can  
12:26:25 47 agree because whilst I've read the Kellam report and that



12:26:29 1 it identifies those types of issues, I just can't recall  
12:26:32 2 whether it was Biggin that took that to any meeting. I  
12:26:36 3 have no personal knowledge of that particular meeting, but  
12:26:38 4 certainly my reading of the Kellam report, which obviously  
12:26:45 5 post-dates this report by a couple of years, that that is  
12:26:48 6 one of the features that are identified in Kellam in his  
12:26:52 7 report.  
12:26:54 8  
12:26:54 9 Whilst that review seems somewhat critical of the conduct  
12:26:59 10 of the SDU, on another viewing it might be that the SDU  
12:27:05 11 members were taking to the upper echelons of Victoria  
12:27:09 12 Police their concerns which were ignored?---Well that's  
12:27:11 13 absolutely what is identified in the Kellam report.  
12:27:14 14  
12:27:15 15 Yes, okay. In any event ultimately that review recommended  
12:27:27 16 one engage SDU staff, welfare, HR, I assume that's human  
12:27:32 17 resources?---That's correct.  
12:27:33 18  
12:27:34 19 And TPA, that's Police Association?---That's right.  
12:27:38 20  
12:27:38 21 To engage with them and to disband the SDU immediately, two  
12:27:42 22 weeks, then place in alternative transition work  
12:27:46 23 locations?---Yes, that's right.  
12:27:47 24  
12:27:48 25 So that's a fairly precipitous job of the SDU, isn't it?  
12:27:54 26 They were axed fairly precipitously?---That's what the  
12:27:59 27 recommendation was. It didn't actually occur that way  
12:28:03 28 though, it was over a longer period of time than two weeks.  
12:28:07 29  
12:28:09 30 Do you understand that any explanation was given to the  
12:28:14 31 members of the SDU?---I wasn't involved in any of that  
12:28:18 32 process.  
12:28:19 33  
12:28:19 34 No, all right. Whilst you weren't involved, I take it from  
12:28:24 35 what you say you don't know whether they were - - - ?---No,  
12:28:27 36 I don't. Clearly the report recommends a meeting with the  
12:28:31 37 Source Development Unit. That wasn't something I was  
12:28:34 38 involved with. I do know and I am aware that it obviously  
12:28:39 39 caused quite a degree of angst and concern for those  
12:28:43 40 members but I wasn't party to any of the communications  
12:28:46 41 that occurred.  
12:28:47 42  
12:28:48 43 All right. Can I leave that topic and return to Operation  
12:29:01 44 Loricated briefly. I've asked you about this before but  
12:29:08 45 subsequent to the disbandment of the SDU, subsequent to the  
12:29:18 46 Comrie review and as a result of the first recommendation  
12:29:21 47 of Mr Comrie, Operation Loricated was in effect set off or

12:29:28 1 kicked off, correct?---That's correct.  
12:29:29 2  
12:29:31 3 That review, as we've examined already, involved a  
12:29:36 4 gathering of information concerning the information that  
12:29:42 5 had been provided by Ms Gobbo to the SDU?---Correct.  
12:29:45 6  
12:30:16 7 Can I just ask you briefly, it seems to be the case that  
12:30:22 8 Loricated confined itself to the information that came in,  
12:30:35 9 into and went out of the SDU and it appears from what we've  
12:30:43 10 already discussed that there was a deliberate decision not  
12:30:47 11 to include the Petra. Do you know whether there was any  
12:30:55 12 other investigation, putting aside the Loricated review,  
12:31:00 13 which focused upon Ms Gobbo's involvement with the other  
12:31:07 14 Task Forces, Petra and the like?---I do not believe there  
12:31:11 15 was any other investigation, so if there was I'm not aware  
12:31:15 16 of it.  
12:31:15 17  
12:31:16 18 Yes?---I think, I think I said earlier on Loricated was  
12:31:21 19 acquitting the recommendation in Kellam and it's quite  
12:31:26 20 clear on a reading of the - sorry, I need to correct  
12:31:32 21 something. It was acquitting the recommendation, the first  
12:31:36 22 recommendation of Comrie, not Kellam, and in terms of that  
12:31:40 23 recommendation the context for the recommendation is pp.10,  
12:31:44 24 11 and 12 of the Comrie report and it's quite clear from  
12:31:47 25 that reading that recommendation was about the human source  
12:31:51 26 records and not other investigative records that may exist  
12:31:55 27 because there was a transition in that period of time from  
12:31:59 28 a manual or a different system to the use of Interpose for  
12:32:03 29 the management of human sources.  
12:32:06 30  
12:32:07 31 In any event it was pretty clear that Comrie took the view  
12:32:13 32 that there should be a proper analysis of the involvement  
12:32:18 33 with Ms Gobbo and the SDU. It was also pretty apparent at  
12:32:25 34 that time that what was required was a close analysis of  
12:32:31 35 the operation of these Task Forces, in particular Petra and  
12:32:36 36 Briars and so forth and their involvement with Ms Gobbo, do  
12:32:39 37 you accept that?---No, I've not read that in terms of any  
12:32:42 38 report that I've read in terms of Comrie or anything else.  
12:32:48 39 With the knowledge that I have today I can absolutely say  
12:32:52 40 that, yes, those relevant Task Forces, that is a relevant  
12:32:59 41 consideration and they should have been reviewed and we've  
12:33:03 42 commenced that process just recently obviously with the  
12:33:06 43 Petra Task Force and collecting all of that information to  
12:33:11 44 make full assessment and disclosure as part of this Royal  
12:33:15 45 Commission.  
12:33:15 46  
12:33:15 47 I mean what would have been apparent about the time that

12:33:18 1 the Comrie review was being carried out was that, or what  
12:33:27 2 should have been apparent is that information was being  
12:33:30 3 provided to members of the Police Force, senior members of  
12:33:35 4 the Police Force outside of the SDU about the concerning  
12:33:40 5 involvement of Ms Gobbo with Victoria Police, and I'm  
12:33:45 6 talking about the concerns brought by the members of the  
12:33:50 7 SDU, the concerns brought by Mr Iddles, for example, when  
12:33:54 8 he was asked to make a statement, potential concerns that  
12:34:00 9 must have occurred to people when the issue of the subpoena  
12:34:04 10 arising out of the Dale, Collins murder committal, all of  
12:34:11 11 those issues really called for a close analysis of what was  
12:34:16 12 going on in those upper echelons of Victoria Police at  
12:34:20 13 about that time in relation to Ms Gobbo, do you accept  
12:34:24 14 that?---I'm not sure that I can accept that in that what I  
12:34:30 15 think was occurring at that period of time, once - well, it  
12:34:35 16 depends which period, but you know when the Comrie report  
12:34:38 17 gets delivered into Victoria Police, keep in mind that I'm  
12:34:41 18 only, my first awareness of or access to read the Comrie  
12:34:47 19 report was in late 2016, quite some years after it was  
12:34:53 20 produced. I think the focus was on the acquittal of the  
12:34:56 21 recommendations of Comrie. I'm not possessed of the  
12:35:00 22 information as to why people made a decision either to  
12:35:06 23 exclude a review of other Task Forces that existed that may  
12:35:10 24 have been in receipt of information via an IR that came  
12:35:15 25 from the handling of Ms Gobbo as a human source or - why  
12:35:22 26 they either included or excluded the need to review those  
12:35:27 27 Task Forces in that same context.

12:35:29 28  
12:35:31 29 I mean one of the things that Comrie noted in his report,  
12:35:35 30 without going to the detail of it, was that there was a  
12:35:38 31 potential impropriety in tasking by Petra of  
12:35:44 32 Ms Gobbo?---Yes.

12:35:44 33  
12:35:44 34 You understand that?---Yes, yes.

12:35:46 35  
12:35:46 36 And effectively it was apparent that that hadn't been the  
12:35:52 37 subject to an investigation because it was excluded from  
12:35:54 38 Loricated?---That is apparent because Loricated confined  
12:35:59 39 itself to recommendation 1 and the context was quite  
12:36:03 40 clearly the reconstruction of the human source record, not  
12:36:06 41 the extraneous use of information in other Task Forces.

12:36:09 42  
12:36:10 43 So if that concern that's been expressed by Comrie is made  
12:36:19 44 plain, and if there's the potential that people have been  
12:36:22 45 incarcerated because of improprieties, potential  
12:36:26 46 improprieties of Task Forces such as Petra, does that mean  
12:36:30 47 that those improprieties remained uninvestigated?---I think

12:36:36 1 they have. You know, I don't think Mr Comrie made a  
12:36:41 2 particular recommendation - without looking at the  
12:36:44 3 recommendations again - that's related to that. But what I  
12:36:48 4 can say with my knowledge of today in my current role, is  
12:36:55 5 in the Landow Task Force in acquitting the responsibilities  
12:37:00 6 of Victoria Police to the Royal Commission, they recently  
12:37:03 7 discovered records that related to the Petra Task Force  
12:37:07 8 that was news to me as the Assistant Commissioner of the  
12:37:12 9 Intelligence and Covert Support Command, noting that Petra  
12:37:17 10 Task Force was in the Crime Command. Once we have  
12:37:21 11 discovered that material we have certainly informed the  
12:37:24 12 Royal Commission and we're collecting that material in  
12:37:27 13 context of disclosure to the Royal Commission.

12:37:30 14  
12:37:30 15 Can I make this suggestion, assuming there was concern  
12:37:34 16 expressed by Mr Comrie in 2012, or thereabouts, about the  
12:37:40 17 impropriety of tasking Ms Gobbo with respect to some of her  
12:37:45 18 clients, is it not extraordinary that it's only now that  
12:37:49 19 investigators are discovering, for example, that Ms Gobbo  
12:37:52 20 was continuing to be a human source, if you like, right  
12:37:55 21 through to 2010, August?---It is surprising to me but,  
12:38:01 22 again, I am not in a position or involvement in that period  
12:38:08 23 of time as a decision maker or had any knowledge of that at  
12:38:12 24 that period of time. So your question or your supposition  
12:38:17 25 involved in that is an absolutely relevant question to ask  
12:38:25 26 appropriate witnesses that no doubt will appear before this  
12:38:27 27 Royal Commission.

12:38:27 28  
12:38:28 29 The next question is who are the appropriate witnesses as  
12:38:29 30 far as you know?---Well I assume they are the people who  
12:38:32 31 were involved in acquitting the recommendations of the  
12:38:35 32 Comrie report, who had access to those materials and who  
12:38:39 33 were decision makers in the organisation at that time.

12:38:41 34  
12:38:41 35 One assumes the people who were on the steering committee  
12:38:44 36 of Loricated who determined not to investigate Petra, that  
12:38:49 37 would be a starting point I suppose, would it?---Yes. So  
12:38:53 38 I'm not aware of all the information that they had, but the  
12:38:57 39 steering committee for Loricated, which was acquitting one  
12:39:00 40 of the recommendations of Comrie, they would be relevant  
12:39:03 41 people to ask what was in their mind, what knowledge did  
12:39:06 42 they have and how did they make subsequent decisions.

12:39:10 43  
12:39:18 44 It's apparent now, as of quite recently, that that period  
12:39:30 45 of the provision of information post de-registration  
12:39:34 46 continued and apparently 207 contact reports were provided  
12:39:41 47 and considered in subsequent investigations. Those contact

12:39:46 1 reports were in effect provided by an informer, not a  
12:39:50 2 witness, is that reasonable to say?---No, no, no, I can't  
12:39:55 3 agree with that. So at that stage Ms Gobbo was providing  
12:40:01 4 information that was formed into witness statements. She  
12:40:05 5 was being managed as a witness by two people whose skill  
12:40:13 6 sets were as human source handlers, but I think that most  
12:40:17 7 of the information contained in what is 207 contact reports  
12:40:22 8 relates to the information gathering from her to go into  
12:40:27 9 the statements that were subsequently taken.

12:40:30 10  
12:40:31 11 As we understand it the statements were taken firstly by I  
12:40:37 12 think Mr Davey in early 2009 in relation to the Hodsons and  
12:40:44 13 Dale. So that's early 2009. And I think also early 2009  
12:40:49 14 Mr Iddles was tasked to take the statement but decided or  
12:40:54 15 determined not to have it signed?---I don't know the dates.

12:40:58 16  
12:40:58 17 Those are in effect pre the period March 2009 and August  
12:41:04 18 2010, correct?---No, I don't have the dates so I can't  
12:41:10 19 agree because I'm just not in possession of that  
12:41:13 20 information.

12:41:13 21  
12:41:13 22 I understand. But accepting those dates are correct, it  
12:41:16 23 would follow then that any information in those 207 contact  
12:41:21 24 reports, and we know at least three of the investigations  
12:41:25 25 that have been looked into because they're referred to in  
12:41:28 26 your statement, concern neither Dale, Hodson or Operation  
12:41:35 27 Briars?---What I'm not in possession of what other witness  
12:41:39 28 statements they were either taking or attempting to take  
12:41:42 29 from Ms Gobbo over that period of time. I do know, I think  
12:41:47 30 it's only about, out of the 207 reports that are recorded,  
12:41:51 31 it is only a very small number where there was an  
12:41:54 32 information report created that was disseminated in terms  
12:41:57 33 of those three investigations. I think it's something like  
12:42:01 34 six.

12:42:01 35  
12:42:02 36 Do you know whether those 207 contact reports have as yet  
12:42:06 37 been provided to the Commission?---No. As is indicated in  
12:42:09 38 my statement, Landow is discovering and investigating all  
12:42:14 39 of that to collect all of that material and provide it to  
12:42:17 40 the Royal Commission. That remains ongoing work.

12:42:22 41  
12:42:22 42 So the answer is they haven't been provided?---I don't  
12:42:25 43 believe they have been provided. I think they're  
12:42:28 44 continuing their work to discover all relevant records and  
12:42:32 45 they will be disclosed to the Royal Commission.

12:42:36 46  
12:42:36 47 MR HOLT: I understand - Commissioner, I apologise for

12:42:37 1 interrupting - I understand the Notice to Produce that  
12:42:40 2 relates to those issues is returnable tomorrow and we  
12:42:44 3 expect to comply with them.

4  
12:42:46 5 COMMISSIONER: Thank you.

12:42:46 6  
12:42:46 7 MR WINNEKE: I thank my learned friend for that.

8  
12:42:55 9 Do you say it's your understanding that those contact  
12:42:58 10 reports were taken by way of, in the preparation for the  
12:43:04 11 making of statements?---Listen that is an assumption I'm  
12:43:08 12 making based on the way I've - I haven't read them but  
12:43:13 13 based on the way I've been briefed by Task Force Landow in  
12:43:17 14 terms of the discovery of that information and their  
12:43:19 15 assessment of that information in terms of its  
12:43:23 16 dissemination to investigations and what it was used for.  
12:43:27 17 My understanding is that most of that information was not  
12:43:29 18 relevant to other investigations. It was relevant to her  
12:43:33 19 management as a witness in Task Force Petra which  
12:43:39 20 thereabouts or some period during that time was consumed  
12:43:43 21 into what became Task Force Driver.

12:43:50 22  
12:43:53 23 If that assumption's correct and these were contacts or  
12:44:00 24 communications with a view to being an overt witness, then  
12:44:06 25 it may be appropriate not to in effect register or have her  
12:44:12 26 registered as a source, do you agree with that?---So they'd  
12:44:17 27 just deactivated her registration, so yes, that's exactly  
12:44:21 28 right. It might have been, despite being recorded on a  
12:44:24 29 form that is used to record information from a human  
12:44:28 30 source, I'm conscious that the two people involved were,  
12:44:32 31 that was their skill set. They were tasked by their  
12:44:35 32 managers to deal with Ms Gobbo as a witness.

12:44:38 33  
12:44:39 34 Yes?---That they may well have used their typical processes  
12:44:45 35 of capturing information to capture information that would  
12:44:48 36 form part of a statement. What I'm not possessed of is  
12:44:52 37 enough information from that process to say to the Royal  
12:44:55 38 Commission that that's 100 per cent correct or - - -

12:44:59 39  
12:44:59 40 No, I follow that?---Either way, but obviously we're going  
12:45:02 41 to be both in a position to understand that very shortly.

12:45:05 42  
12:45:05 43 When we see that?---If we are returnable tomorrow on  
12:45:11 44 Notices to Produce.

12:45:11 45  
12:45:12 46 If it turns out that these were simply, for example, items  
12:45:16 47 of information which were not designed to go into a

12:45:21 1 statement but simply bits of information that were sought  
12:45:24 2 from her as a, let's say member of the public who might  
12:45:30 3 have some useful information to provide but not be used for  
12:45:34 4 the purposes of making a statement, then that might suggest  
12:45:39 5 that she should have been registered as a human  
12:45:42 6 source?---It may well suggest that. Without knowing what's  
12:45:45 7 in that information and the basis on which it was received.  
12:45:50 8  
12:45:50 9 Yes?---I can't form an opinion yet but the policies were in  
12:45:56 10 place, policies were in place at that period of time in  
12:45:58 11 terms of the management of human sources. So if you're  
12:46:03 12 going through a process of receipt of information on the  
12:46:07 13 basis of the offer of confidentiality and that you won't be  
12:46:12 14 discoverable as that source and then that information is  
12:46:16 15 then on disseminated, that would be something that looks  
12:46:20 16 like that it should fall under the policies of the human  
12:46:24 17 source management policies of the organisation at the time.  
12:46:26 18  
12:46:27 19 Yes, okay?---And once we have the opportunity to go through  
12:46:29 20 those documents we will be able to make that assessment.  
12:46:33 21  
12:46:35 22 Ironically at that time there's litigation going on and the  
12:46:39 23 upshot of that litigation is, I think we can say this much,  
12:46:43 24 an agreement that Ms Gobbo was not to be used as a witness  
12:46:47 25 at any stage thereafter?---I think that's right.  
12:46:49 26  
12:46:55 27 Whatever might have been the intention of those who were  
12:46:58 28 getting information from her, events were conspiring and  
12:47:01 29 ultimately there was a resolution between one assumes the  
12:47:06 30 parties to that litigation, who included Simon Overland,  
12:47:09 31 Christine Nixon and the State of Victoria, that Ms Gobbo  
12:47:10 32 would never be used as a witness?---I'm not sure who  
12:47:14 33 settled the agreement or the knowledge of those people in  
12:47:17 34 the settling of that agreement.  
12:47:19 35  
12:47:43 36 I think you mentioned yesterday that - perhaps, if I can, I  
12:47:48 37 want to briefly go back to how you came to be aware that,  
12:48:00 38 or how Victoria Police came to be aware that there was a  
12:48:05 39 potential registration of Ms Gobbo back in 1995. I think  
12:48:11 40 you mentioned that you received information in the nature  
12:48:15 41 of an email, is that right?---Yes, the context of that was  
12:48:20 42 through the work that was being done in the context of the  
12:48:30 43 trial in the Supreme Court, the AB, CD and EF matters, I'd  
12:48:38 44 become aware that there was a reference, I think it was in  
12:48:40 45 the Loricated closure report that there was some inference  
12:48:45 46 that some hard drives may have been missing or destroyed or  
12:48:52 47 something like that and my inquiry was to locate those hard

12:48:57 1 drives because it was obvious to me as a member at that  
12:49:00 2 stage that the location of certain materials that related  
12:49:04 3 to this were important to find and secure.  
12:49:07 4  
12:49:07 5 Yes?---And there was a number of emails that went backwards  
12:49:11 6 and forwards and a response came back to me in June of  
12:49:14 7 2018, and amongst other things in that email I think  
12:49:18 8 there's one line that refers to her registration, an old  
12:49:22 9 registration card having been found that related to a  
12:49:26 10 registration in 1995.  
12:49:28 11  
12:49:29 12 Who were those emails between?---From recollection, as I  
12:49:35 13 indicated yesterday, it was from a Senior Sergeant at the  
12:49:41 14 current Human Source Management Unit to myself.  
12:49:44 15  
12:49:46 16 Do you recall the name of that current now?---No, I didn't  
12:49:51 17 recall it yesterday and I haven't - - -  
12:49:52 18  
12:49:52 19 You still don't?---I haven't had the opportunity to look  
12:49:55 20 for the email and find it, but it will be easily, you know,  
12:49:59 21 found once I have the time to do that.  
12:50:02 22  
12:50:02 23 Do you know whether that email has been produced or those  
12:50:04 24 emails have been produced?---I don't believe so.  
12:50:07 25  
12:50:14 26 Did you inquire of that Senior Sergeant how he came to be  
12:50:17 27 aware that there had been that earlier registration?---No,  
12:50:22 28 not at all.  
12:50:23 29  
12:50:28 30 So you don't know whether it was of his own knowledge or  
12:50:31 31 someone else told him?---Sorry, I didn't inquire further in  
12:50:36 32 terms of that. What I became aware of is that they were  
12:50:41 33 looking at storage boxes in the archive centre to try and  
12:50:46 34 discover the hard drives that I was asking them to obtain.  
12:50:49 35 It was in that context I believe that they came across an  
12:50:54 36 old card reference to Ms Gobbo's registration in 1995.  
12:51:00 37  
12:51:02 38 The hard drives that had been mislocated, do you know how  
12:51:09 39 that had come about, did you investigate that?---They were  
12:51:11 40 found in the storage area. I think they are devices which  
12:51:18 41 were found to be corrupted which have recently been  
12:51:21 42 repaired for a Notice to Produce or to provide to the Royal  
12:51:27 43 Commission.  
12:51:27 44  
12:51:28 45 A Notice to Produce to the Royal Commission?---I believe  
12:51:30 46 so, yes.  
12:51:31 47



12:51:31 1 But what I'm asking you about is you came to the conclusion  
12:51:35 2 or it was your view back in June of 2018 that there were  
12:51:39 3 hard drives which were storing information?---Yes, that the  
12:51:43 4 Loricated database people had had some reference to, that's  
12:51:47 5 right.  
12:51:47 6  
12:51:47 7 I'm asking you about those hard drives and how they came to  
12:51:51 8 be separated from the SDU - - - ?---Holdings.  
12:51:58 9  
12:51:58 10 Holdings if you like, yes?---I think they'd been sent to  
12:52:02 11 archive at a point in time and that's where we've found  
12:52:05 12 them. I'm not so sure of the process that they weren't  
12:52:08 13 sent to archive, but they have been found.  
12:52:11 14  
12:52:12 15 Were you aware that in or about 2012 Mr Pope had been  
12:52:19 16 involved in requesting or taking a component of the SDU  
12:52:26 17 file?---No, no.  
12:52:27 18  
12:52:27 19 To examine?---No, I'm not aware of that.  
12:52:31 20  
12:52:31 21 Not aware of that?---No.  
12:52:33 22  
12:53:13 23 You mentioned the Operation Loricated completion report.  
12:53:32 24 Can you explain what that completion report is?---I think  
12:53:36 25 it's a final report once the Operation Loricated team had  
12:53:41 26 completed their work and essentially locating the relevant  
12:53:46 27 documents to recreate the human source file of Ms Gobbo in  
12:53:50 28 one location and essentially compiled what we now refer to  
12:53:57 29 as the Loricated database.  
12:53:59 30  
12:54:01 31 The key findings of the report were to the effect that,  
12:54:09 32 "Electronic and hard copy files provided to the project  
12:54:13 33 team far exceeded those reviewed by Mr Comrie and enabled a  
12:54:18 34 full reconstruction of the SDU management of Ms Gobbo.  
12:54:23 35 Location of these files in part addresses some of  
12:54:27 36 Mr Comrie's concerns and recommendations. Files were  
12:54:32 37 stored in multiple locations and formats. Hard copy files  
12:54:37 38 were stored in a Human Source Management Unit safe and  
12:54:43 39 secure compactus at the SDU. Electronic files were stored  
12:54:48 40 on a SDU network file and SDU stand alone computer.  
12:54:53 41 Several contacts with the human source were not migrated  
12:54:57 42 into ICRs. This appears to be a result of processes  
12:55:01 43 failing as a result of the volume of information provided  
12:55:03 44 by 3838". There were other findings to the effect that  
12:55:11 45 there was an inability to locate an acknowledgement of  
12:55:17 46 responsibility and there were only two risk assessments  
12:55:20 47 located for the entirety of 3838's, or Ms Gobbo's

12:55:24 1 registration, correct?---That's correct.  
12:55:26 2  
12:55:27 3 There were concerns that, "Contact reports presented as  
12:55:31 4 voluminous slabs of information with contact reports often  
12:55:34 5 containing seven to ten days' worth of contact. Some in  
12:55:37 6 excess of 40 pages and containing 60 contacts or  
12:55:44 7 more"?---That's correct.  
12:55:45 8  
12:55:48 9 That would be problematic one assumes for someone who was  
12:55:56 10 trying to assess what information was being provided and  
12:55:59 11 where that information came from and so forth, would that  
12:56:02 12 be reasonable?---No, I don't follow that that's reasonable.  
12:56:04 13 What it's saying is that the way the contact reports were  
12:56:09 14 developed were instead of a single event or a single day  
12:56:12 15 that it was a practice of the Source Development Unit to  
12:56:17 16 submit a contact report that covered a period of time of a  
12:56:20 17 number of days or a week that all of the information and  
12:56:24 18 its provenance would have been or should have been in that  
12:56:28 19 contact report.  
12:56:28 20  
12:56:30 21 If one was taking, receiving information from a person who  
12:56:34 22 was a legal practitioner, it would be important to identify  
12:56:41 23 what information was being provided and whether that  
12:56:45 24 information was potentially provided contrary to  
12:56:51 25 obligations of legal professional privilege and  
12:56:55 26 confidentiality, et cetera?---Certainly that is my view.  
12:56:59 27 I'm unable to say what was in the mind of the individuals  
12:57:02 28 at the time in terms of their knowledge of those matters or  
12:57:06 29 any instructions they were given. But I come to this with  
12:57:12 30 some different skills and exposure. That is my view, that  
12:57:16 31 it would be appropriate to identify that. I haven't  
12:57:19 32 reviewed the source contact reports in the Operation  
12:57:25 33 Loricated database and I'm not in a position to know what  
12:57:27 34 those members at that time knew or considered in that  
12:57:31 35 assessment.  
12:57:32 36  
12:57:36 37 Again, speaking, I suppose from the position of hindsight  
12:57:39 38 that you're in now, it would be appropriate if it was  
12:57:43 39 determined, even in the first place, to take the  
12:57:47 40 information from a legal practitioner it would be  
12:57:50 41 absolutely fundamental to compartmentalise the information  
12:57:54 42 that was provided. So if there was any suggestion at all  
12:57:57 43 that information was provided in breach of those  
12:58:02 44 obligations it would be clearly identified?---Absolutely.  
12:58:03 45 So with the knowledge that Victoria Police has today, and  
12:58:07 46 indeed that I have as the executive in charge of my  
12:58:09 47 Command, firstly with the processes we've had in place for

12:58:12 1 a number of years now it wouldn't have occurred but should  
12:58:16 2 you be in a situation where you decide to register a legal  
12:58:20 3 practitioner, then there would be clear boundaries about  
12:58:23 4 what information would be sought, what information would  
12:58:26 5 not be sought or would not - they would be instructed not  
12:58:32 6 to provide and if any information was obtained that was  
12:58:36 7 subject to legal professional privilege that should be  
12:58:39 8 quarantined.  
12:58:41 9

12:58:42 10 It's all very well I suppose to say looking back with the  
12:58:45 11 benefit of hindsight those positions are apparent now. But  
12:58:50 12 it would be reasonable to assume that those fundamental  
12:58:54 13 concepts should have been apparent in 2005 as well,  
12:58:58 14 wouldn't it? I mean these are fairly fundamental  
12:59:01 15 propositions?---Listen I understand exactly what you're  
12:59:04 16 saying. What is quite clear to me is, is that it wasn't  
12:59:09 17 apparent to others or it doesn't appear to have been  
12:59:12 18 apparent to others in the organisation at that time. I  
12:59:15 19 wasn't in a role that was involved in that decision making.  
12:59:22 20 As I am today, I can say that I am very conscious of these  
12:59:27 21 issues and this type of process wouldn't be allowed to  
12:59:32 22 occur in the structures, the governance, the oversight  
12:59:37 23 model that we have in Victoria Police at the moment.  
12:59:39 24

12:59:42 25 All right. I wonder if that's an appropriate time?

13:00:18 26 COMMISSIONER: Yes. Adjourn, thank you, 2 o'clock.  
13:00:18 27

13:00:21 28  
13:00:21 29 <(THE WITNESS WITHDREW)  
13:00:22 30

13:00:22 31 LUNCHEON ADJOURNMENT  
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13:53:19 1 UPON RESUMING AT 2.00 PM:  
2  
14:13:51 3 COMMISSIONER: Yes Mr Winneke.  
14:13:52 4  
14:13:53 5 MR WINNEKE: Thank you, Commissioner.  
14:13:56 6  
14:13:57 7 <NEIL JOHN PATERSON, recalled:  
14:14:02 8  
14:14:06 9 MR WINNEKE: Assistant Commissioner, can I just ask you  
14:14:08 10 about a document which is entitled the Operation Loricated  
14:14:10 11 Completion Report. I think I've asked you about that  
14:14:12 12 before. It's dated 21 May 2014. Basically it's an  
14:14:18 13 overview of the work that the Loricated team carried out  
14:14:23 14 and some conclusions are drawn, et cetera, et  
14:14:26 15 cetera?---That's correct.  
14:14:26 16  
14:14:27 17 I take it you're aware of the document and you know about  
14:14:30 18 the matters contained within it; is that right?---Yes, I  
14:14:34 19 have read the document. I wasn't privy to it at the time  
14:14:39 20 of its writing, it's only recently that I've had the  
14:14:42 21 opportunity to read that document.  
14:14:43 22  
14:14:44 23 In your current position I take it you're aware of the  
14:14:47 24 available, the use of available holdings of police  
14:14:54 25 information and where officers can go to find intelligence,  
14:15:00 26 if you like, if they're pursuing a particular investigation  
14:15:05 27 and the resources that are available to police officers or  
14:15:09 28 investigators if they need intelligence, if I can use that  
14:15:15 29 very probably broad and hopeless question?---Yes, we have  
14:15:19 30 an intelligence management system called Interpose and that  
14:15:23 31 is both a repository but they may not always find what  
14:15:27 32 they're after because it's also governed by a security  
14:15:32 33 architecture that allows only any particular user to access  
14:15:36 34 areas of it in their relevant role and responsibilities.  
14:15:41 35  
14:15:41 36 In the report it seems that there's been a categorisation  
14:15:45 37 of the areas of information which had been provided by  
14:15:52 38 Ms Gobbo; is that correct?---I would need to check the  
14:15:56 39 report again. As I said, I have read it but I don't have  
14:15:59 40 it right in front of me.  
14:16:01 41  
14:16:01 42 Without going to the document, there's probably no need to,  
14:16:07 43 but it seems that the report says, "Summary. Issues of  
14:16:11 44 significance have been identified and extracted from ICRs,  
14:16:14 45 audio summaries and management logs and grouped by theme  
14:16:17 46 and subtheme into Microsoft Excel worksheets.  
14:16:22 47 Approximately 2800 individual entries have been identified.

14:16:26 1 The estimated number of these files generated from these  
14:16:29 2 entries is as follows", and thereafter there's a number of  
14:16:34 3 boxes which contain entries, for example, corruption 60,  
14:16:38 4 courts 9, criminal proceeds 40, Customs 6, drugs 15, and  
14:16:43 5 then gaming and racing, homicide, legal conflict, legal  
14:16:48 6 profession, OMCG - what's that?---Organised motorcycle  
14:16:54 7 gangs.  
14:16:55 8  
14:16:55 9 Other 7, waterfront 8. Then the document summarises the  
14:17:00 10 information in those boxes, if you like. You're aware of  
14:17:06 11 that?---Yes, I have read that.  
14:17:07 12  
14:17:08 13 All right then. Is it your understanding that those who  
14:17:14 14 went through that information did go through the process of  
14:17:17 15 categorising that information?---I am aware of that because  
14:17:20 16 of that report.  
14:17:21 17  
14:17:21 18 Right. There's a section which is entitled "Information  
14:17:27 19 value" and it says, "A governance process was adopted by  
14:17:32 20 the project team that applied the following considerations  
14:17:34 21 when reviewing and grouping information". Then there are a  
14:17:38 22 number of sections which are "relevant seriousness,  
14:17:41 23 validation, investigations re intelligence, can it be  
14:17:44 24 actioned? Risk rating, who will investigate, review it?"  
14:17:47 25 Now, can I ask you this: is the material in that Loricated  
14:17:55 26 database currently available for investigative  
14:18:00 27 purposes?---To the Royal Commission, yes.  
14:18:01 28  
14:18:02 29 No, not for the Royal Commission?---Sorry.  
14:18:05 30  
14:18:06 31 For Victoria Police?---The Loricated database is certainly  
14:18:09 32 within the agency. It's held in the agency, it is not  
14:18:13 33 shared. It is not on our Interpose system. But certainly  
14:18:17 34 Victoria Police has that database.  
14:18:19 35  
14:18:20 36 So I take it from - what you mean is that there is  
14:18:23 37 intelligence in that database which is available to use by  
14:18:28 38 Inspectors, or by investigators?---Well, it depends where  
14:18:35 39 you are. So if you're an investigator out at a suburban  
14:18:39 40 CIU, no, it's not available to you.  
14:18:41 41  
14:18:41 42 No?---And neither should it be available to you. If you're  
14:18:46 43 an investigator in a Crime Command area, it's not available  
14:18:49 44 to you. The Loricated database is a reconstruction of a  
14:18:51 45 human source file.  
14:18:53 46  
14:18:53 47 Yes?---It contains information. If there is a relevant

14:18:56 1 reason to conduct an investigation that relates to that  
14:19:01 2 period of time - - -  
14:19:02 3  
14:19:02 4 Yes?--- - - - then it can be made available, absolutely.  
14:19:05 5  
14:19:05 6 Okay. That information in that database which has been  
14:19:08 7 provided by Nicola Gobbo in a sense can still be accessed  
14:19:13 8 by investigators to this very day if they need  
14:19:16 9 to?---Correct.  
14:19:17 10  
14:19:18 11 Right, thanks very much. Do you know whether that  
14:19:20 12 intelligence has been disseminated to any other area of  
14:19:23 13 Victoria Police since it was compiled?---No, it's their  
14:19:29 14 human source file. The human source file won't be  
14:19:32 15 distributed anywhere else.  
14:19:33 16  
14:19:34 17 No, but the intelligence from it?---So the - I don't -  
14:19:42 18 sorry, my hesitation is that you're talking about the IRs  
14:19:50 19 that were generated out of that.  
14:19:51 20  
14:19:52 21 Yes?---That were already distributed to various  
14:19:55 22 investigative groups during their investigations.  
14:19:58 23  
14:19:58 24 Yes. What I'm talking about, it appears from that report  
14:20:00 25 that there has been a process of categorisation and  
14:20:03 26 identification of the sorts of information that can be  
14:20:09 27 ascertained from that material in the categories that I was  
14:20:12 28 talking about?---M'mm.  
14:20:13 29  
14:20:13 30 And what you're saying is if an investigator is  
14:20:16 31 investigating matters from that period of time, an  
14:20:21 32 application can be made to somewhere within your division  
14:20:25 33 to access that database in order to access that  
14:20:28 34 intelligence?---I'm not so sure that any investigator in  
14:20:34 35 Victoria Police would be aware that we have reconstructed a  
14:20:37 36 human source file.  
14:20:39 37  
14:20:39 38 Right?---Or would know how it could be relevant to any one  
14:20:43 39 of their investigations. So whilst the file has been  
14:20:47 40 reconstructed in terms of recommendation 1 of the Comrie  
14:20:53 41 report, and was obviously available at the time of the  
14:20:59 42 Kellam inquiry.  
14:21:00 43  
14:21:01 44 Right?---It's not something that we've sent out a message  
14:21:05 45 across Victoria Police, for instance, to say, "Any  
14:21:08 46 detective that requires access to certain material relating  
14:21:11 47 to" - - -

14:21:15 1 I understand that. You haven't advertised the availability  
14:21:20 2 of that material?---Yes.  
14:21:21 3  
14:21:21 4 The fact is that information is held within your  
14:21:24 5 department?---Yes.  
14:21:25 6  
14:21:25 7 It's held?---Yes, the database is held.  
14:21:27 8  
14:21:27 9 It's not at the bottom of the bay and quarantined from ever  
14:21:31 10 being used. It is available if necessary for use, is that  
14:21:35 11 what you're saying?---Yes, it is. It would need to meet  
14:21:38 12 certain thresholds because it contains human source  
14:21:41 13 information. Obviously it's only very recent times where  
14:21:48 14 some legal proceedings concluded in the High Court.  
14:21:51 15  
14:21:52 16 Yes?---And then Ms Gobbo has been named. So its relevance  
14:22:01 17 to any of those things changes through periods of time  
14:22:04 18 obviously, so there would have been points of time there  
14:22:06 19 that decision making in terms of access to that database  
14:22:10 20 would have been considerably restricted.  
14:22:12 21  
14:22:12 22 Yes?---Where we are today.  
14:22:14 23  
14:22:14 24 Yes?---We're in a different position.  
14:22:19 25  
14:22:19 26 Can I ask you this: are there records of any police officer  
14:22:24 27 kept who has sought to access that database and obtain  
14:22:29 28 information from it?---Well no, I don't believe there are  
14:22:34 29 such records because the database is what it is.  
14:22:37 30  
14:22:37 31 Yes?---No one has been accessing it to obtain information.  
14:22:42 32  
14:22:42 33 Yes?---It's been held securely as a database, as a system  
14:22:47 34 of work which was designed to recreate the human source  
14:22:52 35 file of Ms Gobbo.  
14:22:53 36  
14:22:54 37 Yes, all right. But what you're saying is that if a person  
14:23:00 38 did need to interrogate that system because there was an  
14:23:04 39 investigation going on which concerned events which might  
14:23:10 40 be found within that database, then it's conceivable that  
14:23:14 41 that information even today could be accessed for the  
14:23:17 42 purposes of an ongoing investigation?---It is conceivable.  
14:23:20 43  
14:23:20 44 Okay.  
14:23:27 45  
14:23:28 46 COMMISSIONER: Are you going to tender the Operation  
14:23:32 47 Loricated Completion Report?

14:23:35 1 MR HOLT: It's a document that's still part of that review  
14:23:38 2 process, Commissioner. We're comfortable with the way in  
14:23:40 3 which it's been dealt and will be down the track.  
14:23:41 4  
14:23:41 5 COMMISSIONER: All right then.  
14:23:42 6  
14:23:43 7 MR WINNEKE: As I understand it, Commissioner, there is a  
14:23:45 8 claim for public interest immunity over it.  
14:23:46 9  
14:23:46 10 COMMISSIONER: Okay, all right.  
14:23:47 11  
14:23:48 12 MR WINNEKE: There will need to be an assessment of that I  
14:23:50 13 take it.  
14:23:51 14  
14:23:51 15 COMMISSIONER: All right. Could I just follow up - are you  
14:23:53 16 going to a different topic now, Mr Winneke?  
14:23:56 17  
14:23:56 18 MR WINNEKE: Yes, I am.  
14:23:57 19  
14:23:57 20 COMMISSIONER: Just before you do then. Just in relation  
14:23:59 21 to this document, can the witness be shown a hard copy of  
14:24:02 22 it? It might be quicker if he is.  
14:24:04 23  
14:24:05 24 MR WINNEKE: Yes. It's got some highlights on it,  
14:24:15 25 Commissioner.  
14:24:15 26  
14:24:16 27 COMMISSIONER: Yes. That's all right. I just thought it  
14:24:19 28 might be a bit quicker if he had a copy of it. Towards the  
14:24:22 29 back of it I don't think there's numbered pages but if you  
14:24:22 30 look at the pages at the top, the last three numbers on it  
14:24:26 31 are 230. If you could go to that page, please?---Is that  
14:24:32 32 the one where it has a table starting at the top?  
14:24:34 33  
14:24:34 34 Yes, that's it?---Yes.  
14:24:35 35  
14:24:36 36 Then you go to 3, "Information value". What I just wanted  
14:24:39 37 to point out to you following on from Mr Winneke's  
14:24:42 38 questioning, there are things in this which suggest that  
14:24:45 39 the information is still being treated by Victoria Police  
14:24:48 40 as current and, for example, you go to 3A, "Relevance. Is  
14:24:53 41 it historical or current?" Then further down E, "Can it be  
14:24:58 42 actioned?" That suggests that it's current  
14:25:04 43 and - - -?---Current at the time of the report being  
14:25:07 44 written.  
14:25:07 45  
14:25:07 46 Right. But it does suggest that - the sense that you get  
14:25:12 47 from reading it is that it's still, as Mr Winneke suggested



14:25:16 1 to you, capable of being used as material. And then  
14:25:24 2 further on at 232, a couple of pages further on towards the  
14:25:30 3 bottom of the page, just before number 7, it gives advice  
14:25:34 4 as to how you use it and how care should be made to avoid  
14:25:37 5 reference to the source by name, number, gender or other  
14:25:41 6 things that might lead to identification?---So I guess the  
14:25:45 7 best way for me to address that is the report is dated 24  
14:25:48 8 May 2014. There was a steering committee over that  
14:25:53 9 process. This report, I wasn't involved in that steering  
14:25:57 10 committee and I didn't commence as the Assistant  
14:26:02 11 Commissioner until about 18 months post this report, so I  
14:26:04 12 would assume that this completion report was a report that  
14:26:07 13 was presented to a steering committee, given some  
14:26:10 14 consideration and given direction in terms of any further  
14:26:14 15 actions arising out of the report.

14:26:18 16  
14:26:18 17 All right then. Thank you. Thanks Mr Winneke.

14:26:35 18  
14:26:36 19 MR WINNEKE: I just want to cover off on a couple of topics  
14:26:39 20 before I finish up. In your statement at p.46 under the  
14:26:45 21 topic of events leading up to the creation of the SDU, you  
14:26:53 22 refer to a project team studying national and international  
14:27:00 23 best practice, examining existing human source structures  
14:27:04 24 and speaking to representatives from law enforcement  
14:27:06 25 agencies. Is it your understanding that members of  
14:27:11 26 Victoria Police travelled overseas to speak to foreign  
14:27:18 27 agencies to determine international best practice?---Yes, I  
14:27:22 28 think there has been a period of time when some members  
14:27:26 29 travelled internationally to understand, and I think that  
14:27:29 30 was prior to the formation of the SDU.

14:27:32 31  
14:27:32 32 Right. Indeed, I think in your report about international  
14:27:37 33 policies and procedures you refer to a procedure which is  
14:27:50 34 available - I'm sorry, a home office report or a home  
14:27:55 35 office guideline which is available to investigators in the  
14:28:03 36 United Kingdom which relates to the use of human sources;  
14:28:09 37 is that right?---Yes. So that's the Code of Practice that  
14:28:12 38 comes out of a requirement in the Regulation of  
14:28:16 39 Investigative Powers Act of the UK.

14:28:18 40  
14:28:18 41 Yes?---It refers in a latter section of that Act to the  
14:28:22 42 requirement to put in place a guide.

14:28:24 43  
14:28:24 44 Yes?---And the guide that I'm referring to there is the  
14:28:28 45 most recent addition of that guide, August 2018.

14:28:31 46  
14:28:32 47 Yes, all right. Is it your understanding that there were

14:28:34 1 earlier iterations of that guide or that Code of Practice  
14:28:40 2 starting from about 2002?---Yes, I think the first  
14:28:49 3 iteration was 2002.  
14:28:50 4  
14:28:50 5 Is it your understanding that that iteration or that Code  
14:28:55 6 of Practice contained references to procedures dedicated to  
14:29:00 7 issues which might arise in the event that a human source  
14:29:02 8 was a legal practitioner or subject to obligations of legal  
14:29:06 9 professional privilege?---Yes, and I formed that view  
14:29:11 10 because of the Kellam report's talk of that particular  
14:29:13 11 product. I haven't had access to the version from 2002.  
14:29:16 12  
14:29:17 13 Save for that which was referred to in the Kellam  
14:29:19 14 report?---Correct, yes.  
14:29:20 15  
14:29:21 16 That Code of Practice contained a number of paragraphs,  
14:29:26 17 including these, "Where there is any doubt as to the  
14:29:29 18 handling and dissemination of information which may be the  
14:29:32 19 subject of LPP, advice should be sought from a legal  
14:29:36 20 adviser before any further dissemination of the material  
14:29:39 21 takes place"?---That's correct.  
14:29:40 22  
14:29:41 23 And the Code of Practice also stated at paragraph 3.5:  
14:29:41 24 "Legally privileged information obtained by a source is  
14:29:45 25 extremely unlikely to ever be admissible as evidence in  
14:29:49 26 criminal proceedings. Moreover, the mere fact that use has  
14:29:52 27 been made of a source to obtain such information my lead to  
14:29:56 28 any related criminal proceedings being stayed as an abuse  
14:29:56 29 of process"?---Yes.  
14:30:00 30  
14:30:00 31 You understand that, all right. Do you know who the  
14:30:03 32 members of Victoria Police were who travelled to the United  
14:30:07 33 Kingdom to establish or to find out what the international  
14:30:12 34 best practice was with respect to human sources?---I'm  
14:30:16 35 aware of the identity of one of those. I haven't seen a  
14:30:20 36 report of who attended though.  
14:30:22 37  
14:30:22 38 Right. What's that person's name?---That would create a  
14:30:27 39 conflict for me, Commissioner, in context of other orders  
14:30:30 40 you've made to provide that answer.  
14:30:34 41  
14:30:34 42 Sorry?  
14:30:35 43  
14:30:35 44 MR HOLT: It's a name that would be the subject of a  
14:30:38 45 pseudonym.  
14:30:39 46  
14:30:40 47 MR WINNEKE: I apologise, I apologise. You can't name that

14:30:44 1 person because of - - -  
14:30:44 2  
14:30:44 3 COMMISSIONER: What period are we talking about here  
14:30:47 4 because you might be talking about different periods?  
14:30:48 5  
14:30:48 6 MR WINNEKE: I'm talking about 2004. What you're saying is  
14:30:51 7 you couldn't provide that name because - - - ?---Because of  
14:30:55 8 the Commissioner's order.  
14:30:56 9  
14:30:57 10 He's a member of the SDU, or you can't say that  
14:31:02 11 much?---Commissioner, I'm conscious that you've got an  
14:31:05 12 order in place. I seek to abide by the order that you put  
14:31:08 13 in place.  
14:31:09 14  
14:31:09 15 COMMISSIONER: Certainly?---I'm put in a difficult  
14:31:11 16 position.  
14:31:11 17  
14:31:12 18 MR WINNEKE: I wonder if the witness could be shown a list  
14:31:15 19 and if he could identify it by pseudonym, without referring  
14:31:19 20 to the rank, the name on that list? Would that be possible  
14:31:24 21 to do?  
14:31:25 22  
14:31:26 23 MR HOLT: Highly possible. Commissioner, I wonder if now  
14:31:28 24 is an appropriate time to make the order which I think is  
14:31:32 25 now in place which includes that list.  
14:31:33 26  
14:31:33 27 COMMISSIONER: It's not in place because the order hasn't  
14:31:34 28 been yet.  
14:31:34 29  
14:31:35 30 MR HOLT: I apologise. When I say is in place I mean is  
14:31:35 31 now in the form I think which is at least agreed between  
14:31:37 32 most of the Bar table .  
14:31:37 33  
14:31:37 34 COMMISSIONER: I just want to talk to all of you about the  
14:31:41 35 order. Now how will this work in order 1A, "The names of  
14:31:45 36 the nominated police members can be accessed on request  
14:31:48 37 from the solicitors assisting the Royal Commission subject  
14:31:51 38 to any necessary direction"? That's not suggesting that  
14:31:56 39 anybody can find out the name from the solicitors, is it?  
14:31:58 40  
14:31:59 41 MR HOLT: We were expecting that would be what would be the  
14:32:00 42 subject of direction from the Commissioner but the  
14:32:03 43 expectation would be, accredited media would be the  
14:32:06 44 expectation so they don't breach the order and that could  
14:32:07 45 be made specifically. That would be a matter of direction  
14:32:11 46 for you, Commissioner, we would think.  
14:32:14 47

14:32:16 1 COMMISSIONER: Are you meaning to say that - - -  
14:32:21 2  
14:32:22 3 MR HOLT: I suppose, Commissioner, I if can put it this  
14:32:25 4 way. The other position would be that that list of names  
14:32:27 5 effectively is part of the order that goes on the door.  
14:32:30 6 That would defeat the purpose of the order because of the  
14:32:34 7 circular need for secrecy in relation to them, so it's  
14:32:35 8 about attempting to find an, albeit imperfect, way to  
14:32:37 9 ensure that those who need to know what those names are  
14:32:40 10 know sufficiently and that way - bluntly, Commissioner, the  
14:32:46 11 best way we have been able to come up is this way, I don't  
14:32:49 12 think anybody's had a better suggestion, which is that it  
14:32:52 13 would be available and one would expect of course that  
14:32:53 14 accredited media would understand the order that had been  
14:32:55 15 made and would make those inquiries. If somebody else who  
14:32:59 16 might otherwise be concerned as a private citizen, they  
14:33:02 17 might be breach the order, then they would be in a position  
14:33:04 18 to come and ask as well and that would be a matter of  
14:33:07 19 direction in the particular case.  
14:33:09 20  
14:33:09 21 COMMISSIONER: Does that not defeat the order in that the  
14:33:13 22 names of those people can be found out simply by asking the  
14:33:18 23 solicitors assisting the Commission?  
14:33:21 24  
14:33:22 25 MR HOLT: Only in accordance with any direction that you  
14:33:24 26 give, Commissioner, as to - - -  
14:33:25 27  
14:33:25 28 COMMISSIONER: Wouldn't it be better for them to apply  
14:33:28 29 to - - -  
14:33:29 30  
14:33:30 31 MR HOLT: Perhaps, Commissioner, they could apply, if they  
14:33:32 32 were not otherwise an accredited media - I'm not sure if  
14:33:36 33 that's even a thing. No, perhaps it might need to be an  
14:33:39 34 application process. In any event - - -  
14:33:41 35  
14:33:42 36 COMMISSIONER: It's hard to see why anybody other than  
14:33:45 37 accredited media, otherwise they can apply to the  
14:33:48 38 Commission otherwise.  
14:33:49 39  
14:33:50 40 MR HOLT: Quite.  
14:33:50 41  
14:33:50 42 COMMISSIONER: The names of the nominated police members  
14:33:53 43 can be accessed on request by accredited media?  
14:33:59 44  
14:34:00 45 MR HOLT: Yes, thank you. And perhaps "and otherwise on  
14:34:03 46 application".  
14:34:03 47

14:34:04 1 COMMISSIONER: "And otherwise on application to the  
14:34:10 2 Commission." Then I have since seen the list which has,  
14:34:21 3 or a list anyway, I don't know whether it's the list, but a  
14:34:25 4 list which does have the rank given the pseudonym.  
14:34:29 5  
14:34:29 6 MR HOLT: No, there's a different list.  
14:34:30 7  
14:34:31 8 COMMISSIONER: There's a different list. I'm just  
14:34:31 9 wondering, though, when I saw that, the rank given with the  
14:34:34 10 pseudonym, depending on the term of the order made by the  
14:34:38 11 Court of Appeal, that may not offend the order. Does  
14:34:42 12 anyone actually have an order, a copy of the order, the  
14:34:46 13 relevant part of the order made by the Court of Appeal?  
14:34:48 14  
14:34:50 15 MR HOLT: I don't have it immediately to hand,  
14:34:52 16 Commissioner.  
14:34:52 17  
14:34:53 18 COMMISSIONER: Does anyone in the court have that?  
14:34:55 19  
14:34:55 20 MR WINNEKE: I'm afraid I don't, Commissioner.  
14:34:58 21  
14:34:58 22 MR HOLT: Might I suggest this for present purposes: the  
14:35:00 23 list of pseudonyms would only be in the possession of the  
14:35:03 24 Commission, in effect it's not of itself to be published  
14:35:08 25 under the terms of the order. In that sense that it refers  
14:35:11 26 to ranks at present doesn't matter. Although the list that  
14:35:13 27 is now prepared has two additional names on it so it will  
14:35:16 28 need to supersede the one the Commissioner has in any  
14:35:19 29 event.  
14:35:19 30  
14:35:20 31 COMMISSIONER: Sure. If someone could check the order  
14:35:27 32 originally made so that we can see whether by having the  
14:35:30 33 rank and a pseudonym that may not necessarily offend the  
14:35:34 34 original order.  
14:35:35 35  
14:35:36 36 MR HOLT: It may not, Commissioner, but we will check.  
14:35:38 37  
14:35:38 38 COMMISSIONER: In a sense that's part of the new pseudonym  
14:35:41 39 I suppose.  
14:35:42 40  
14:35:42 41 MR HOLT: It would be good if it didn't because it would  
14:35:46 42 solve a particular problem.  
14:35:46 43  
14:35:47 44 COMMISSIONER: It would solve a particular problem.  
45  
14:35:49 46 Otherwise I can make this order with that amendment and  
14:35:53 47 then if we find out that it's okay to include the rank in  
the pseudonym we can just, I can just delete - amend the

14:35:58 1 order to delete the reference to "and ranks".  
14:36:03 2  
14:36:04 3 MR HOLT: I think I now have access to the order  
14:36:06 4 electronically but I'd like to just peruse with some care  
14:36:08 5 to make sure I can assist the Commissioner.  
14:36:10 6  
14:36:11 7 COMMISSIONER: Sure, there's no particular rush. So the  
14:36:13 8 order I make is that pursuant to s.26 Inquiries Act 2014:  
14:36:20 9 (a) publication is prohibited of any material that would  
14:36:23 10 identify nominated police members in connection with  
14:36:25 11 Ms Gobbo or this proceeding, or any information that would  
14:36:28 12 enable their identity to be ascertained, including their  
14:36:31 13 images. The names of the nominated police members can be  
14:36:33 14 accessed on request by accredited media from the solicitors  
14:36:39 15 assisting the Royal Commission and otherwise on application  
14:36:42 16 to the Commission; (b) publication is prohibited. Any  
14:36:46 17 material that would identify police members as being  
14:36:49 18 handlers or controllers of human sources or any information  
14:36:54 19 that would enable their identity to be ascertained,  
14:36:58 20 including publication of images, initials and ranks. 2.  
14:37:00 21 All people who have been assigned pseudonyms by the Royal  
14:37:01 22 Commission are to be referred at all times in the hearings  
14:37:05 23 by those pseudonyms.  
14:37:11 24  
14:37:11 25 Just another issue when I'm reading that. When  
14:37:14 26 they're sworn I think I'd prefer to have them sworn in  
14:37:18 27 their real names, although that obviously would not be able  
14:37:22 28 to be recorded, and perhaps their real names put in an  
14:37:28 29 envelope and marked and sealed and then the transcript will  
14:37:33 30 simply record that they have given evidence under their -  
14:37:37 31 they've taken an oath or affirmation under their real names  
14:37:41 32 and forthwith they'll give evidence under the pseudonym.  
14:37:46 33  
14:37:46 34 MR HOLT: Thank you, Commissioner. Might we take that on  
14:37:48 35 notice so I can consider it carefully.  
14:37:50 36  
14:37:50 37 COMMISSIONER: Yes, consider it carefully.  
14:37:52 38  
14:37:52 39 MR HOLT: We're not going to get to that point for some  
14:37:57 40 time.  
14:37:57 41  
14:37:57 42 COMMISSIONER: No. In which case order 2 might not be  
14:38:00 43 correct.  
14:38:00 44  
14:38:01 45 MR HOLT: Might we leave order 2 in place for now and then  
14:38:04 46 we can come to a view on that additional issue and it can  
14:38:05 47 be amended if necessary.

14:38:05 1  
14:38:06 2 COMMISSIONER: All right then. Going back to the order:  
14:38:07 3 3. A copy of this order is to be posted on the door of the  
14:38:10 4 hearing room and the rooms into which the hearing is being  
14:38:13 5 transmitted.  
14:38:14 6  
14:38:14 7 You can see my concern, I want people to take oaths or  
14:38:18 8 affirmations under their real names, not under a pseudonym.  
14:38:21 9  
14:38:21 10 MR HOLT: It's not a matter we'd considered and I'd like to  
14:38:26 11 have an opportunity to discuss it with Mr Winneke and we  
14:38:28 12 can deal with that.  
14:38:28 13  
14:38:28 14 COMMISSIONER: Yes.  
14:38:29 15  
14:38:29 16 MR HOLT: If the witness might be shown that list although  
14:38:31 17 I apprehend we might be in - - -  
14:38:33 18  
14:38:33 19 MR WINNEKE: My suspicion is that after all this time he  
14:38:41 20 might not be on the list. Could the witness be shown a  
14:38:44 21 list that my learned instructor has.  
14:38:48 22  
14:38:48 23 MR HOLT: If should say, Commissioner, this is not  
14:38:49 24 unanticipated. The idea is that there are a number of  
14:38:50 25 people who might fall into this category during the hearing  
14:38:53 26 and the list will be amended and pseudonyms added as we go.  
14:38:58 27 I just think this is one that wasn't anticipated.  
14:39:01 28  
14:39:02 29 MR WINNEKE: Assistant Commissioner, on that list do you  
14:39:04 30 see the name of a person who were thinking was a person who  
14:39:08 31 went on an international study trip in about 2004?---I do.  
14:39:12 32  
14:39:13 33 You do. Right. Are you able to - assuming that the names  
14:39:17 34 on the left are those which you should not read - I assume  
14:39:22 35 you've got - could you provide the name on the right which  
14:39:29 36 is associated with that name?---Sure I can. I must say  
14:39:33 37 that my belief comes from something I've read, I can't  
14:39:36 38 confirm that they were part of the overseas trip but I  
14:39:40 39 understand, my belief is that Jones was one such person.  
14:39:44 40  
14:39:44 41 All right, thanks very much. Can I say this - you may not  
14:39:55 42 know this but you've perused the Notices to Produce I take  
14:39:59 43 it?---I think I've said in a number of questions, I think  
14:40:04 44 I've seen three Notices to Produce.  
14:40:06 45  
14:40:06 46 Notice to Produce 2 was a notice which included a request  
14:40:10 47 for details of a trip, including the itinerary, overseas

14:40:16 1 trip including the itinerary. As far as we believe no  
14:40:22 2 material has been produced. Do you know whether there is  
14:40:26 3 such an itinerary or any such materials?---No, I don't.  
14:40:30 4  
14:40:31 5 Okay?---So Task Force Landow is the task force designed to  
14:40:35 6 find and retrieve and address the Notices to Produce from  
14:40:38 7 the Royal Commission, and whilst I sit on the steering  
14:40:43 8 committee the reporting lines are through the Director of  
14:40:45 9 Legal Services to the Deputy Commissioner and no doubt  
14:40:50 10 they're endeavouring to search and find all information and  
14:40:54 11 provide that as soon as possible.  
14:40:55 12  
14:40:56 13 That can be another bit of homework if that's okay, thanks  
14:40:59 14 very much.  
14:40:59 15  
14:41:00 16 MR HOLT: I can assist if it helps. Some material in this  
14:41:03 17 category has been produced. We can provide the ringtail  
14:41:08 18 numbers in a moment. We had indicated in correspondence  
14:41:10 19 that others, in terms of corporate records of itineraries  
14:41:11 20 and so on had not yet been able to be pulled from archives  
14:41:15 21 in a traditional way and those efforts are ongoing and will  
14:41:18 22 be provided as soon as they're received, Commissioner. So  
14:41:21 23 there's been partial, but not complete, response with an  
14:41:26 24 explanation provided.  
14:41:27 25  
14:41:27 26 COMMISSIONER: Thank you Mr Holt.  
14:41:28 27  
14:41:32 28 MR WINNEKE: In any event, it seems to be apparent that  
14:41:35 29 whoever it was who went overseas to the UK didn't come back  
14:41:42 30 and carry with them the Home Office Code of  
14:41:47 31 Practice?---That appears correct, yes.  
14:41:48 32  
14:41:50 33 That's a Code of Practice which applied not just to one  
14:41:55 34 particular division of the United Kingdom Police Force but  
14:41:59 35 to virtually all investigative bodies which carried out  
14:42:05 36 investigative functions within the United Kingdom; is that  
14:42:07 37 right?---Yes, it was a Home Office guide created in  
14:42:10 38 accordance with the Ripper for all UK law enforcement and  
14:42:19 39 intelligence type agencies that had a role to play.  
14:42:22 40  
14:42:23 41 Starting from, for example, council investigators?---Yes.  
42  
14:42:29 43 Council matters, Scotland Yard?---Yes.  
14:42:32 44  
14:42:32 45 All of those investigative bodies in the United Kingdom  
14:42:35 46 were in effect provided guidance by this Home Office Code  
14:42:41 47 of Practice?---That's correct.



14:42:43 1  
14:42:43 2 A fairly fundamental document?---Yes, they absolutely see  
14:42:47 3 it as a fundamental document.  
14:42:49 4  
14:42:49 5 Thank you very much.  
14:42:50 6  
14:42:51 7 COMMISSIONER: Did your information tell you that that was  
14:42:53 8 also publicly available on the Internet at that time?---I'm  
14:42:58 9 not aware whether at that time that it was publicly  
14:43:02 10 available. I know in the current version and the version  
14:43:05 11 immediately prior to the August 2018, I can't recall the  
14:43:08 12 date, but I think it's a 2014 version, that those two  
14:43:12 13 versions were subsequently publicly available on the  
14:43:15 14 Internet.  
14:43:18 15  
14:43:19 16 MR WINNEKE: In any event obviously you weren't associated  
14:43:22 17 with this trip, but one would assume from your knowledge of  
14:43:25 18 Victoria Police that it has fairly close capabilities in  
14:43:29 19 terms of liaison with the United Kingdom Police Forces and  
14:43:33 20 so forth?---Yes. We've got good relationships in many of  
14:43:38 21 our international agencies.  
22  
14:43:40 23 So if a member of Victoria Police went over to the United  
14:43:43 24 Kingdom in around 2004 there would be letters of  
14:43:46 25 introduction or the like preceding them?---May well have  
14:43:50 26 been, yes.  
14:43:50 27  
14:43:50 28 And certainly members of British Police Forces or  
14:43:53 29 representatives able to speak to Victorian police  
14:43:59 30 officers?---Yes, that would be the way it occurred.  
14:44:02 31  
14:44:02 32 All right. One of the questions I asked earlier was  
14:44:15 33 whether you were aware of any information reports which  
14:44:20 34 went from Victoria Police outside of Victoria Police to,  
14:44:24 35 for example, the Australian Federal Police. Have you got  
14:44:26 36 an answer to that yet or not?---I indicated shortly after  
14:44:29 37 the first answer that there were a number of joint task  
14:44:33 38 forces involved at that time.  
14:44:34 39  
14:44:34 40 Yes?---And certainly they went into the joint task force  
14:44:38 41 environment.  
14:44:39 42  
14:44:39 43 Yes?---So inasmuch as that occurred I'm aware that  
14:44:43 44 information went to the Australian Federal Police as part  
14:44:46 45 of joint task forces.  
14:44:48 46  
14:44:48 47 Yes?---I'm not aware whether any particular IR outside of

14:44:52 1 the joint framework was sent to the Australian Federal  
14:44:56 2 Police.  
14:44:56 3  
14:44:56 4 All right. When you say you're not aware, have you made  
14:45:04 5 inquiries since you were asked as to whether they did go or  
14:45:10 6 not?---Since your question before lunch no, I have not been  
14:45:14 7 able to make those inquiries.  
14:45:16 8  
14:45:17 9 Fair enough. You will no doubt continue to find that  
14:45:22 10 out?---Absolutely. No doubt my counsel in the room are  
14:45:26 11 taking notes of all the questions and - - -  
12  
14:45:29 13 COMMISSIONER: I hope somebody is?--- - - -promises I've  
14:45:29 14 given to supply a whole lot of documents and we will follow  
14:45:32 15 that up and if it's not from the transcript or notes, we'll  
14:45:34 16 absolutely do that.  
14:45:36 17  
14:45:36 18 MR HOLT: I can assure the Commission that's being done and  
14:45:40 19 taskings as they can be done immediately are being done are  
14:45:42 20 being done immediately, and otherwise they'll be discussed  
14:45:44 21 with Assistant Commissioner Paterson after his evidence  
14:45:59 22 concludes.  
14:46:03 23  
14:46:03 24 COMMISSIONER: Thanks very much.  
14:46:04 25  
26 MR WINNEKE: Yesterday I asked how many cases had been made  
27 the subject of disclosure and I think we mentioned once  
28 case. Have you found out whether there are any more than  
14:46:05 29 that one case since yesterday?---Yes, I have.  
30  
14:46:05 31 And what's the answer?---Subsequent to your inquiry  
14:46:07 32 yesterday I've ascertained that 37 matters have been fully  
14:46:10 33 assessed for disclosure obligations.  
14:46:13 34  
14:46:14 35 Yes?---Eighteen matters have been informed to the  
14:46:16 36 Commonwealth Director of Public Prosecutions that  
14:46:19 37 disclosure obligations did not arise.  
14:46:23 38  
14:46:23 39 Yes?---And of the remaining matters, 19, one was the  
14:46:29 40 subject of a full disclosure to the Director of Public  
14:46:32 41 Prosecutions and they were advised of 18 further matters  
14:46:35 42 where disclosure obligations did not arise.  
14:46:39 43  
14:46:40 44 As far as you're aware there's only one case where there  
14:46:44 45 has been disclosure?---Where there's been any issue  
14:46:47 46 identified that requires disclosure. So the process is  
14:46:51 47 ongoing. It's quite an extensive process. So there are

14:46:54 1 many other matters in that train of work that's being  
14:46:58 2 undertaken.  
14:46:58 3  
14:46:59 4 You said that was the Commonwealth?---Eighteen to the CDPP.  
14:47:06 5  
14:47:06 6 Yes?---Eighteen plus one to the State Director of Public  
14:47:10 7 Prosecutions. So they've been informed of 18 matters that  
14:47:13 8 we've fully assessed that there is no disclosure to be made  
14:47:19 9 and one matter where disclosure has now occurred.  
14:47:22 10  
14:47:24 11 Is that case the only disclosure that is going to be  
14:47:31 12 made?---The process is ongoing. It's quite a lengthy  
14:47:35 13 process to occur, quite a number of checks, and then advice  
14:47:42 14 by other counsel in terms of the material that's found and  
14:47:49 15 it's an ongoing process that will take some time.  
14:47:51 16  
14:47:52 17 All right.  
14:47:52 18  
14:47:53 19 COMMISSIONER: I'm sorry, Mr Paterson, I don't quite follow  
14:47:55 20 that. There were 37 matters you mentioned, is that both  
14:47:59 21 Commonwealth and State?---Yes.  
14:48:00 22  
14:48:01 23 Okay. And so there were 18 for the Commonwealth DPP; is  
14:48:06 24 that right?---That's correct.  
14:48:06 25  
14:48:06 26 None of which required disclosure or are they still  
14:48:10 27 ongoing?---No. So those eighteen - so there's still  
14:48:12 28 ongoing assessment of other matters.  
14:48:16 29  
14:48:16 30 Right?---But the 37 matters we've fully assessed, 18 the  
14:48:22 31 CDPP has been informed there is no disclosure to be made.  
14:48:25 32  
14:48:25 33 Are they the only ones affecting the CDPP?---I don't have  
14:48:30 34 that information. I was asked to find out where we'd  
14:48:34 35 landed in terms of the disclosure obligations, what  
14:48:37 36 disclosures had been made.  
14:48:38 37  
14:48:39 38 So 19 in effect, the DPP, the State DPP?---Nineteen, that's  
14:48:44 39 correct.  
14:48:44 40  
14:48:45 41 One of which you've given disclosure?---Yes.  
14:48:48 42  
14:48:50 43 Eighteen, no disclosure is required?---Yes, there's nothing  
14:48:52 44 to disclose.  
14:48:53 45  
14:48:54 46 And there are other matter both in the Commonwealth and  
14:48:56 47 State sphere that you're still looking at, is that

14:48:58 1 right?---Correct.

14:48:59 2

14:48:59 3 I understand now. Thank you.

14:49:00 4

14:49:03 5 MR WINNEKE: Is it your understanding that the Commonwealth  
14:49:05 6 Director of Public Prosecutions has identified 72 cases in  
14:49:08 7 total in which Ms Gobbo acted?---I'm not aware of that.

14:49:11 8

14:49:30 9 Just before I move from that topic can I ask you this, just  
14:49:35 10 to be clear. You're not aware of how many cases that  
14:49:41 11 Ms Gobbo acted for - sorry, in respect of the Commonwealth  
14:49:47 12 it's not clear to you in how many cases she acted or  
14:49:52 13 advised accused persons; is that right?---That may well be  
14:49:57 14 detail that's known in Victoria Police.

14:49:59 15

14:49:59 16 Yes?---I don't know that detail.

14:50:00 17

14:50:01 18 I follow that?---But I'm happy to, as always, Mr Winneke,  
14:50:04 19 I'm happy to take that as a question, find out the answer  
14:50:07 20 and provide that answer back of what Victoria Police knows  
14:50:10 21 in our joint work with the Commonwealth Director.

14:50:13 22

14:50:13 23 Yes?---Of the exact number.

14:50:15 24

14:50:15 25 All right. In terms of the State, I take it the same  
14:50:19 26 applies there. We understand that Ms Gobbo acted for  
14:50:26 27 600-odd people in the State jurisdiction. I assume that  
14:50:28 28 there hasn't been to date an examination of anywhere near  
14:50:35 29 all of those cases?---No, no, absolutely not. The work is,  
14:50:38 30 as you know, is extensive. I have heard the figure of 600  
14:50:45 31 bandied around. I don't know that that is accurate but  
14:50:48 32 certainly the work is ongoing.

14:50:50 33

14:50:50 34 Yes?---It's extensive and it will take some time to  
14:50:54 35 complete that work.

14:50:55 36

14:50:55 37 All right. Can I ask you - well I asked you yesterday when  
14:51:01 38 the disclosure process started, that is when was a team put  
14:51:06 39 together to commence analysing each case to determine  
14:51:12 40 whether or not disclosure should be made?---M'mm.

14:51:15 41

14:51:16 42 You mentioned yesterday that counsel was briefed at some  
14:51:19 43 stage, you believe, subsequent to the commencement of the  
14:51:25 44 Royal Commission. Now, do you know now when counsel was  
14:51:30 45 engaged?---No, I haven't asked that question but as per my  
14:51:34 46 response yesterday, Task Force Landow is set up to do that  
14:51:38 47 particular work, as well as the response to the Royal

14:51:41 1 Commission. That task force started its life in December  
14:51:46 2 2018 and we've been rapidly building the resources for that  
14:51:51 3 task force to acquit their responsibilities.  
14:51:54 4  
14:51:54 5 Yes?---I'm not sure of the date that counsel was engaged in  
14:51:58 6 terms of the assessments there but it certainly is another  
14:52:03 7 detail that I'm happy to find out and report back to you.  
14:52:07 8  
14:52:07 9 All right. Was it in February, indeed at some stage in  
14:52:15 10 that latter part of February or not?---I recall the same  
14:52:18 11 question yesterday. I'm just not sure, Mr Winneke, but I  
14:52:21 12 can find that out.  
14:52:22 13  
14:52:22 14 Can I ask you this: the issues around disclosure, the  
14:52:26 15 possibility that persons might have been wrongly convicted  
14:52:32 16 have now been floating around for a considerable period of  
14:52:37 17 time. The Kellam report is 2012?---2015.  
14:52:44 18  
14:52:44 19 I'm sorry, Comrie report 2012, Kellam report 2015?---Yes.  
14:52:47 20  
14:52:47 21 Prior to that we've spoken about an advice in 2011, prior  
14:52:51 22 to that, December 2008, there's talk about the possibility  
14:52:55 23 of wrongful convictions. Would you accept that it is  
14:53:00 24 unacceptable that the process only begins to determine what  
14:53:07 25 disclosure should be made after the decision of the High  
14:53:12 26 Court in 2018, December?---Again I don't think I'm in a  
14:53:15 27 position to accept that. Various decision makers along  
14:53:20 28 that journey have made various decisions and I have not  
14:53:24 29 been that person. I have certainly been involved in more  
14:53:28 30 recent times in context of the matters in the Supreme  
14:53:33 31 Court, Court of Appeal and the High Court.  
14:53:34 32  
14:53:35 33 Yes?---And it was not a matter that was considered by the  
14:53:41 34 time that I have been involved in the Bendigo Steering  
14:53:45 35 Committee until the subsequent decision of rejecting leave  
14:53:50 36 to appeal from the High Court.  
14:53:52 37  
14:53:52 38 The position was taken by Victoria Police that there should  
14:53:55 39 be no disclosure. That was Victoria Police's position, as  
14:54:01 40 I understand it?---Listen, I'm not sure that I'm aware of  
14:54:05 41 that if that's such a position. I think what Victoria  
14:54:09 42 Police was trying to do was, they were in a position where  
14:54:13 43 they had offered someone confidentiality as an informer.  
14:54:19 44 They had conflicting obligations and they were in a legal  
14:54:23 45 process to resolve those matters, and subject to that  
14:54:30 46 resolution was - you know, there were clearly further steps  
14:54:35 47 to be taken depending on which way the matter resolved.

14:54:40 1 I understand that but in the meantime good, bad or  
14:54:49 2 indifferent people are in custody and have been in custody  
14:54:53 3 in some cases for a considerable period of time, do you  
14:54:56 4 accept that?---Yes, I do, yes.  
14:54:57 5  
14:54:58 6 It was always conceivable, given the views expressed by,  
14:55:02 7 for example, Gerard Maguire in 2011, that ultimately the  
14:55:06 8 position might need to be that there would need to be  
14:55:10 9 disclosure?---That's correct.  
14:55:12 10  
14:55:12 11 What I'm simply suggesting, it's a fairly simple  
14:55:15 12 proposition, that shouldn't Victoria Police have been in a  
14:55:18 13 position immediately after the legal position was settled,  
14:55:20 14 which was in December of 2018, to say, "Here it  
14:55:24 15 is"?---Listen I absolutely understand your proposition and  
14:55:27 16 it is a very reasonable proposition. What I can't answer  
14:55:30 17 though is that the decision makers, whether they considered  
14:55:34 18 that that was a reasonable proposition at any of those  
14:55:37 19 points in time. But subsequent to the decision of the High  
14:55:44 20 Court it is clearly a process that is being engaged in.  
14:55:47 21 Resources are addressing the requirements to assess  
14:55:50 22 everything in context of disclosure of the 37 matters that  
14:55:54 23 have been fully investigated to date. One matter has  
14:55:58 24 required disclosure and that process is ongoing and  
14:56:03 25 Victoria Police has a strong commitment to resourcing the  
14:56:06 26 requirements to acquit that accountability.  
14:56:09 27  
14:56:09 28 All right. I understand you weren't the decision maker.  
14:56:12 29 Do you know who were the decision makers in that  
14:56:17 30 regard?---I don't know that any decision was made in that  
14:56:19 31 regard was the point I made before. So I'm not possessed  
14:56:22 32 of information to say anyone said, "Should we start an  
14:56:27 33 investigation to compile information ready for disclosure",  
14:56:33 34 subsequent to the litigation that was occurring.  
14:56:36 35  
14:56:36 36 All right, okay. Thanks very much. Can I deal finally  
14:56:59 37 with - just before I move on. Do you know whether there's  
14:57:02 38 any prioritisation with respect to the cases which are  
14:57:06 39 being analysed for the purposes of disclosure?---Yes, I  
14:57:10 40 believe that they are being prioritised.  
14:57:12 41  
14:57:13 42 In what way, what is the priority?---I think that anyone in  
14:57:19 43 custody is a prioritisation. I'm conscious though that if  
14:57:23 44 you fit in that realm of a person being in custody there  
14:57:26 45 may well be extensive records that need to be assessed for  
14:57:29 46 that period of time so that there'll be multiple matters  
14:57:33 47 being assessed and some of those matters will take a longer

14:57:36 1 period of time than a much shorter briefer matter.  
14:57:40 2  
14:57:40 3 Okay. Are you aware that the Royal Commission has now been  
14:57:43 4 asking for a considerable period of time, weeks, to be  
14:57:50 5 given a list of people in custody so it can get on with its  
14:57:54 6 task to prioritise, are you aware of that?---I am aware  
14:57:59 7 that you have raised that question before in another  
14:58:01 8 meeting I have been involved in.  
14:58:03 9  
14:58:04 10 Yes?---I'm not sure what the response you've received to  
14:58:09 11 date is.  
14:58:09 12  
14:58:09 13 Well the Royal Commission hasn't been provided with a list  
14:58:11 14 of people who are in custody?---Okay. I'm not sure why  
14:58:14 15 that is, Mr Winneke. To me that seems quite a simple  
14:58:18 16 question.  
14:58:18 17  
14:58:18 18 It does, I agree?---I'm not sure why it can't be answered  
14:58:22 19 quite simply. But I can, again - - -  
14:58:24 20  
14:58:24 21 COMMISSIONER: We can add that to your list of  
14:58:28 22 homework?---I can add to my list, Commissioner.  
23  
24 Thank you?---I haven't been personally asked to provide  
14:58:30 25 that list but clearly you've made the request to Victoria  
14:58:33 26 Police. Most of that work of any request is being  
14:58:36 27 undertaken by the Landow Task Force but I will commit that  
14:58:41 28 we will find out that exact number and we'll provide that  
14:58:44 29 as soon as we can.  
14:58:45 30  
14:58:46 31 MR WINNEKE: Thank you Assistant Commissioner. Finally,  
14:58:50 32 the Royal Commission asked at question seven whether  
14:58:55 33 Victoria Police identified any misconduct by Victoria  
14:58:59 34 Police, its officers or employees or anyone otherwise on  
14:59:03 35 its behalf during the period from 93 to present relating to  
14:59:06 36 the matters that are the subject of the earlier questions  
14:59:09 37 in the letter and that's at 9.1, which is at p.68 of the  
14:59:18 38 statement. Do you see that?---I have that, thank you.  
14:59:21 39  
14:59:22 40 In effect, your answer to that set out an explanation as to  
14:59:29 41 what occurred and what you've said is that in May of 2018 a  
14:59:39 42 panel was established called the Kellam Report Review Panel  
14:59:46 43 and the panel was set up following the sequence of  
14:59:49 44 correspondence between Victoria Police and IBAC on the  
14:59:52 45 following dates, do you see that?---I do.  
14:59:55 46  
14:59:59 47 Just before I move to the letters, what you say at 9.6 is,

15:00:07 1 "Both the Comrie report and the Kellam report identified  
15:00:10 2 ways in which conduct of police officers fell below  
15:00:16 3 standards articulated in those reports. By way of example  
15:00:20 4 the Kellam report described certain conduct as  
15:00:24 5 negligent"?---That's correct.  
15:00:25 6  
15:00:25 7 I think the negligence was described as negligence of a  
15:00:27 8 high order?---A high order, that's right.  
15:00:29 9  
15:00:30 10 So that would be underplaying it to say it was just  
15:00:32 11 negligence, wouldn't it?---There is nothing in my statement  
15:00:36 12 that is attempting to underplay anything.  
15:00:38 13  
15:00:38 14 Okay?---The Kellam report is attached to my statement. I'm  
15:00:41 15 very aware of the words in it. But he described it as  
15:00:45 16 negligence of a high order.  
15:00:46 17  
15:00:46 18 Okay?---Victoria Police doesn't resile from that.  
15:00:51 19  
15:00:51 20 No, no, I understand that. The Kellam report came out in  
15:00:55 21 2015 we've established?---That's correct.  
15:00:57 22  
15:00:58 23 And prior to that there was the Comrie report which also  
15:01:01 24 suggested, and I can't recall the exact words used, but  
15:01:05 25 certainly words similar to that?---Yes, there were.  
15:01:08 26  
15:01:11 27 By 2018, April 2018, nearly three years later, Victoria  
15:01:19 28 Police had set up no review as a response to the Kellam  
15:01:29 29 report in order to determine whether disciplinary  
15:01:31 30 proceedings or the like should be carried out; is that  
15:01:33 31 right?---That's correct.  
15:01:34 32  
15:01:34 33 And then there was a letter on 30 April 2018, IBAC to  
15:01:40 34 Victoria Police. Now I wonder if you could have a look at  
15:01:44 35 this document VPL.0005.0013.0958. Do you see that?---Yes,  
15:02:00 36 I do.  
15:02:01 37  
15:02:01 38 That's a letter - if you scroll down to the bottom it's  
15:02:05 39 from I think Alistair McLean, is that right - keep going -  
15:02:09 40 Chief Executive Officer of IBAC?---Yes.  
15:02:12 41  
15:02:12 42 Back to the top, it was written to Mr Shane Paton APM and  
15:02:25 43 it was along these lines, "As you are aware, Victoria  
15:02:32 44 Police, Commonwealth and State Directors of Public  
15:02:34 45 Prosecutions say in the Kellam report provided they have  
46 for some considerable period of time focussed upon  
47 questions whether public interest immunity could be



15:02:35 1 maintained and whether any conduct with respect to Lawyer X  
15:02:35 2 gave rise to a miscarriage of justice. IBAC hasn't been  
15:02:40 3 privy to that process". That's the Supreme Court  
15:02:46 4 proceedings?---Yes.

15:02:48 5  
15:02:49 6 "IBAC hasn't been privy to that process. We were however  
15:02:54 7 advised some time ago by the Chief Commissioner that the  
15:02:57 8 recommendations of Mr Kellam concerning the procedures in  
15:02:57 9 handling human sources had been implemented. You'll recall  
15:03:01 10 that we met on 26 March and I subsequently wrote to you  
15:03:04 11 seeking a further update on the response of Victoria Police  
15:03:07 12 to the Kellam report. I draw your attention in particular  
15:03:09 13 to Mr Kellam's two principal findings, which were various  
15:03:15 14 activities of SDU can be said to have been improper.  
15:03:18 15 Although the only impropriety on behalf of individual  
15:03:23 16 police officers is substantially mitigated and behaviour  
17 constituting negligence of a high order on the part of  
15:03:25 18 those responsible for their, (that is the SDU's)  
15:03:28 19 supervision, guidance, instruction and management". In  
15:03:31 20 effect, those who were responsible for providing  
15:03:35 21 supervision, guidance and instruction and management of the  
15:03:39 22 SDU members, right? "Separately to our discussions the  
15:03:46 23 Commissioner and Chief Commissioner met on 16 April.  
15:03:51 24 Mr Finn McCrae, general counsel and I were present. Mr  
15:03:51 25 McCrae advised that Victoria Police considered the above  
15:03:52 26 findings of Mr Kellam and had resolved to take no action  
15:03:56 27 with respect to the conduct of individual officers. He  
15:03:58 28 stated the decision not to investigate with respect to the  
15:04:01 29 SDU officers was due to Mr Kellam's finding of substantial  
15:04:05 30 mitigation and in the case of those supervisory officers  
15:04:10 31 because most were no longer employed by Victoria Police.  
15:04:16 32 Mr McCrae further confirmed this position in discussions I  
15:04:19 33 had with him on a later occasion. IBAC must consider  
15:04:20 34 whether any further action by the Chief Commissioner in  
15:04:22 35 that regard is warranted. To that end we would be assisted  
15:04:25 36 if you could make reference to any other factors that were  
15:04:28 37 relevant to the decision not to take any action with  
15:04:30 38 respect to any of the members concerned". That's the  
15:04:34 39 letter that you referred to at 9.2 paragraph A of your  
15:04:39 40 statement; is that right?---That's correct.

15:04:40 41  
15:04:42 42 Do you know who made the decision not to take any  
15:04:45 43 action?---Do you mean in context of the review panel?

15:04:52 44  
15:04:53 45 No, can we just go down. Scroll back. Up, rather. You'll  
15:05:06 46 see the last paragraph, "Mr McCrae advised that Victoria  
15:05:10 47 Police had considered the above findings and had resolved

15:05:12 1 to take no actions". I'm asking you who within Victoria  
15:05:18 2 Police had resolved to take no action by the date, that is  
15:05:20 3 the date the letter was sent, 30 April 2018?---I'm not 100  
15:05:24 4 per cent sure. Obviously I'm not the author of the letter.  
15:05:27 5  
15:05:27 6 No, I understand that?---Obviously post that period of time  
15:05:30 7 there was the further exchange of letters which are  
15:05:33 8 outlined there.  
15:05:33 9  
15:05:33 10 Yes?---And the panel was formed. So I'm not aware who made  
15:05:37 11 that decision.  
15:05:37 12  
15:05:38 13 Save to say that various police officers had instructed  
15:05:41 14 Mr McCrae that no action would be taken?---It would appear  
15:05:47 15 that way.  
15:05:47 16  
15:05:49 17 As a consequence of that a letter to IBAC was written by  
15:05:54 18 Victoria Police on 9 May 2018. I wonder - I tender that  
15:05:59 19 letter, Commissioner.  
15:06:01 20  
15:06:02 21 #EXHIBIT RC9 - Letter.  
15:06:10 22  
15:06:10 23 COMMISSIONER: Who wrote the letter?  
15:06:12 24  
15:06:12 25 MR WINNEKE: Alistair McLean, CEO of IBAC to Mr Shane  
15:06:19 26 Paton, Deputy Commissioner Specialist Operations.  
15:06:28 27  
15:06:29 28 If we can put up the further letter dated 9 May 2018,  
15:06:33 29 VPL.0005.0013.0577. This appears to be a response to  
15:06:50 30 Commissioner Redlich of IBAC written, if we go down to the  
15:06:58 31 bottom, by I think Mr Paton, or under his hand. Could we  
15:07:03 32 go to the bottom of the letter, please. Shane Paton. If  
15:07:07 33 we go up to the letter. Clearly this is a response and the  
15:07:17 34 response says, "That all recommendations made by Mr Kellam  
15:07:20 35 have now been acquitted. I have attached a status chart  
15:07:23 36 for your reference detailing the actions taken". Then  
15:07:27 37 there's a reference to protection of 3838. "In early 2013  
15:07:32 38 Victoria Police established an internal steering committee  
15:07:35 39 with oversight. The steering committee is chaired by me as  
15:07:39 40 Deputy Commissioner. Membership comprises of independent  
15:07:41 41 senior officers and representatives from", those four  
15:07:44 42 divisions. "The steering committee is governed by terms of  
15:07:54 43 reference, attachment 2 and 3". He also refers to a  
15:08:02 44 further letter from Mr McLean dated 30 April 2018 and  
45 confirmed that, "No further investigation into the conduct  
15:08:08 46 of Victoria Police members has been undertaken by Victoria  
15:08:13 47 Police" and he advises that the SDU is already disbanded in

15:08:16 1 2013 in accordance with recommendations of the Comrie  
15:08:19 2 review. Senior police officer responsible for the  
15:08:22 3 "supervision, guidance and instruction and management of  
15:08:26 4 individual police officers during the relevant period had  
15:08:30 5 resigned or were no longer working at the ICSC when the  
15:08:35 6 Kellam report was released". And in addition there are a  
7 number of other points made. Kellam didn't name any  
15:08:38 8 individual members of police, made no findings of any  
15:08:40 9 criminal conduct on the part of VicPol. No recommendations  
15:08:45 10 that any further investigations be undertaken. Victoria  
15:08:48 11 Police has not at any point received referral from IBAC  
15:08:53 12 requesting any further investigation or disciplinary  
15:08:55 13 action. Then there's a reference to a press conference and  
15:08:57 14 that reads - you can read that there. Do you see  
15:09:15 15 that?---Yes, I do.

15:09:15 16  
15:09:16 17 "Ultimately there is no recommendation to us that we need  
15:09:20 18 to investigate any individual. There's nothing to  
15:09:22 19 recommend that we need explore the possibility that any  
15:09:25 20 individual has committed any criminal offence." In  
15:09:31 21 response to that letter IBAC wrote on 14 May 2018 - I  
15:09:37 22 tender that letter, Commissioner.

15:09:40 23  
15:09:41 24 #EXHIBIT RC10 - Letter dated 09/05/18, Paton to IBAC.

15:10:10 25  
15:10:25 26  
15:10:25 27 The next letter in response to that was five days later,  
15:10:25 28 IBAC to Victoria Police, 0005.0013.0575. This is a letter  
15:10:42 29 again from Alistair Maclean to - just scroll up slightly.  
15:10:50 30 Alistair Maclean. Come down. Again. Writing in response  
15:10:57 31 to your letter of 9 May. He drew your attention to  
15:11:03 32 Mr Kellam's findings regarding the SDU members and those  
15:11:08 33 supervising and managing the SDU. "I refer to the advice  
34 from your general counsel that following receipt of the  
15:11:11 35 report Victoria Police had resolved not to take any action  
15:11:14 36 with respect to individuals about whom those findings had  
15:11:16 37 been made." The letter sought any further explanation as  
15:11:19 38 to why no action was considered warranted. In your letter  
15:11:23 39 you advised that no further investigation into the conduct  
15:11:27 40 of Victoria Police members had been undertaken. "With  
15:11:30 41 respect this does not address our question. We do not  
15:11:30 42 regard any further investigation as required. The Kellam  
15:11:35 43 report was clear with respect to the conduct of the members  
15:11:37 44 of the SDU and the conduct of officers responsible for  
15:11:41 45 their 'supervision, guidance, instruction and management'  
15:11:44 46 about whom the finding of negligence of a high order was  
15:11:48 47 made. As was the case at the time of the Kellam report and

15:11:54 1 which continues to be the practice upon the completion of  
15:11:57 2 an IBAC investigation the findings are conveyed to the  
15:11:59 3 Chief Commissioner for consideration. As a matter of  
15:12:00 4 practice IBAC does not recommend particular action be taken  
15:12:05 5 against individual officers as that is within the remit of  
15:12:11 6 the Chief Commissioner". So in other words he's saying,  
15:12:11 7 "Well your response to asked to say that you didn't tell us  
15:12:13 8 to carry out an investigation doesn't hold because it's up  
15:12:15 9 to you", that's what he is saying, isn't it?---Yes, that  
15:12:19 10 appears to be to be what he is saying.

15:12:21 11  
15:12:22 12 In your letter you advise the SDU had already been  
15:12:24 13 disbanded as a result of the Comrie review and that,  
14 "Senior police officers responsible for supervision,  
15:12:27 15 guidance, instruction and management had either resigned or  
15:12:31 16 were no longer working in such capacity. I note however  
15:12:34 17 that a number of the officers identified in the Kellam  
15:12:38 18 report as playing a managerial role over the SDU are  
15:12:41 19 currently discharging senior and important roles within the  
15:12:44 20 Force". You correctly point out that Mr Kellam made no  
15:12:47 21 findings of criminal conduct but, "His findings plainly  
22 demonstrated that the conduct would have brought the Force  
15:12:52 23 into disrepute and diminished public confidence in Victoria  
15:12:57 24 Police". In effect he is not satisfied with the  
15:13:00 25 response?---That's absolutely correct, but I need to also  
15:13:03 26 point out that it's my strong view that there's a  
15:13:06 27 considerable mistake in that letter in that there is no  
15:13:11 28 senior, no person playing a managerial role or currently  
15:13:18 29 discharging senior important roles within the Force. That  
15:13:22 30 fact that's stated as fact in Mr Maclean's letter is just  
15:13:27 31 not true. It is evidently not true because no one in  
15:13:30 32 charge of the SDU at the time of the writing of those  
15:13:32 33 reports were employed in Victoria Police.

15:13:34 34  
15:13:35 35 So in effect what you say is, look, because these police  
15:13:45 36 officers had either left or were no longer in the Police  
15:13:53 37 Force, it wasn't necessary to carry out an appropriate  
15:13:56 38 inquiry or a review of the conduct of the police officers  
15:14:00 39 involved, that's the view, is it?---Well you started the  
15:14:05 40 question with what you say. This letter is not my letter,  
15:14:09 41 this is correspondence between a Deputy Commissioner and  
15:14:12 42 IBAC. The history to this correspondence, you know, I was  
15:14:19 43 a member of the Bendigo steering committee and at a point  
15:14:24 44 in time I'd been asked to acquit, to make sure that we had  
15:14:27 45 - the organisation had fully acquitted the Comrie and  
15:14:32 46 Kellam recommendations and it was through that process  
15:14:36 47 that, you know, I found correspondence from the former

15:14:41 1 Acting Chief Commissioner to IBAC that acquitted the Kellam  
15:14:46 2 report and there was a letter, correspondence back from  
15:14:51 3 IBAC acknowledging that correspondence and indicating that  
15:14:56 4 they would catch up on a regular basis in context of these  
15:15:00 5 matters. And I remember at a point in time asking a  
15:15:02 6 question as to whether IBAC had ever followed up with us  
15:15:07 7 like it had indicated in their letter and it was apparent  
15:15:11 8 that that had never occurred. And I remember also asking  
15:15:16 9 had we considered any discipline matters against the people  
15:15:20 10 involved in the Kellam report and that led to the initial  
15:15:24 11 meeting where Victoria Police went to IBAC and asked them,  
15:15:28 12 you know, what was your response in terms of to IBAC, was  
15:15:37 13 it your intention to undertake any further action and to  
15:15:40 14 the subsequent exchange of letters that you've just read  
15:15:43 15 out, what's clear to me from this, from the exchange of  
15:15:47 16 letters is that at the time of that exchange of letters,  
15:15:53 17 that it was, there was no one left in Victoria Police that  
15:15:58 18 had a managerial roll over the Source Development Unit at  
15:16:05 19 the time relevant for that period that Kellam looked at.  
15:16:08 20 There were only two people left in the organisation of  
15:16:13 21 which in Kellam's report he makes clear that they're not  
15:16:18 22 the people that he sees any fault in, it was the  
15:16:23 23 leadership, management over that period of time. And the  
15:16:25 24 only other observation I make is that if IBAC was to have  
15:16:33 25 considered at a point in time that it was an officer of  
15:16:36 26 Assistant Commissioner rank or above that had been  
15:16:39 27 responsible for any discipline offence or criminal offence,  
15:16:45 28 that Victoria Police does not have the ability to  
15:16:47 29 investigate that individual, that that is IBAC's  
15:16:50 30 responsibility under their Act.

15:16:52 31  
15:16:52 32 I follow that. Now, one of the problems with that is, as  
15:17:00 33 we have discussed already, Kellam in effect focuses on  
15:17:04 34 Loricated, correct?---No, Kellam's inquiry focuses on the  
15:17:13 35 Source Development Unit over the period of time that it  
15:17:16 36 managed Ms Gobbo.

15:17:17 37  
15:17:17 38 Yes, and it came about because of the Comrie review which  
15:17:21 39 was by a specific decision focused upon the SDU and  
15:17:28 40 excluded an examination of those very senior or senior  
15:17:32 41 police officers involved in the Petra Task Force?---No, no,  
15:17:37 42 I think what the Comrie report did was, and I think it's  
15:17:41 43 evident from reading the Comrie report, Mr Comrie takes -  
15:17:45 44 the policy in place at the time he undertakes his inquiry  
15:17:49 45 and says, "Would the policy of 2012 stop what occurred in  
15:17:55 46 2005 to 9?" So he applied the then policies of Victoria  
15:18:02 47 Police to the past historic behaviour that occurred at the

15:18:07 1 Source Development Unit.  
15:18:08 2  
15:18:09 3 In his conclusion there was either gross negligence or  
15:18:12 4 negligence of a high order, something along those  
15:18:16 5 lines?---They are Kellam's words. Comrie said other  
15:18:20 6 things.  
15:18:20 7  
15:18:20 8 What did he say?---I don't have the Comrie report in front  
15:18:24 9 of me. You know it's quite lengthy. I'm happy to be  
15:18:28 10 guided and shown a copy and we can read that out. But what  
15:18:30 11 Comrie clearly identified was that even the policy in place  
15:18:35 12 in 2012 would not necessarily have prevented what occurred  
15:18:41 13 in the 2005 to 9 period. So his recommendations went to  
15:18:46 14 the heart of many of the policy failures in the  
15:18:51 15 organisation at that time.  
15:18:53 16  
15:18:53 17 All right. But in any event - okay. Ultimately what did  
15:19:07 18 happen though was that a review panel was set up?---Yes,  
15:19:12 19 that's correct.  
15:19:13 20  
15:19:13 21 And the review panel was set up to examine the conduct of  
15:19:22 22 three remaining handlers?---Two.  
15:19:25 23  
15:19:25 24 Two remaining handlers?---Who were not, as I said, the  
15:19:30 25 people that Kellam criticised in the way he did in his  
15:19:36 26 report. But in order to acquit the concern that IBAC had  
15:19:42 27 expressed in the correspondence, I think that the panel was  
15:19:46 28 formed, given some Terms of References for what their  
15:19:50 29 duties were, and they undertook a piece of work.  
15:19:52 30  
15:19:53 31 The Terms of Reference were to examine the conduct of any  
15:19:56 32 members who were still serving who were not supervisory  
15:20:02 33 members but were the relatively junior handlers?---That's  
15:20:05 34 correct, because they're the only people that exist in the  
15:20:08 35 organisation at the time. You know, it may not be  
15:20:18 36 self-evident to everyone, but we do not have a process  
15:20:23 37 where we can conduct a discipline investigation under the  
15:20:27 38 *Victoria Police Act* into a former member of Victoria  
15:20:31 39 Police, we can only do that in context of a current member.  
15:20:34 40 If that current member is of the rank of Assistant  
15:20:38 41 Commissioner or above then that's the responsibility of  
15:20:40 42 IBAC. Naturally we have the ability to undertake a  
15:20:43 43 criminal investigation into anyone, but conscious of what  
15:20:50 44 Kellam found was that the requisites of criminality were  
15:20:54 45 not found by him in his report.  
15:20:57 46  
15:20:57 47 Yes, all right. So after the Comrie review do you say

15:21:03 1 that, this is in 2012, there was still any serving members  
15:21:10 2 of Victoria Police in a managerial or directive  
15:21:14 3 capacity?---Yes, there would have been.  
15:21:16 4  
15:21:16 5 And there weren't any disciplinary actions taken then?---I  
15:21:19 6 don't believe there were, no.  
15:21:22 7  
15:21:22 8 After the Kellam review in 2015, were there any of the  
15:21:28 9 supervisors or senior members who had managerial roles with  
15:21:32 10 respect to the SDU at that stage?---I think that was  
15:21:36 11 addressed in one of the pieces of correspondence but I  
15:21:40 12 don't have personal knowledge of the time lines of when  
15:21:42 13 various managers left the organisation but I think it was  
15:21:47 14 the subject of one of the letters that we saw a moment ago.  
15:21:49 15  
15:21:49 16 In any event by 2018 they'd all gone and there were only a  
15:21:53 17 couple of handlers left and by that stage it was too late  
15:21:56 18 to take any disciplinary proceedings?---Yes, in the sense  
15:22:02 19 that it was quite clear that the handlers involved, based  
15:22:07 20 on the Kellam report, weren't the target, that's right.  
15:22:12 21  
15:22:13 22 Yes, all right. Thanks very much.  
15:22:14 23  
15:22:17 24 COMMISSIONER: I've just got a few questions before we go  
15:22:20 25 to Mr Chettle. If I could take you to 3.116 of your  
15:22:26 26 statement on p.25. You say, "Victoria Police is in the  
15:22:35 27 process of collating documentation into allegations of  
15:22:37 28 other types of relationships between Ms Gobbo and former  
15:22:40 29 and current members of Victoria Police". Do you know when  
15:22:47 30 that's going to be completed?---I don't. It's a question I  
15:22:51 31 can find out again. That's the work of the Landow Task  
15:22:55 32 Force completing there.  
15:22:56 33  
15:22:56 34 What types of relationships are you talking about  
15:22:59 35 there?---I think it's, there's a couple of times in my  
15:23:04 36 statement there has been talk of inappropriate  
15:23:07 37 relationships, perhaps intimate relationships with police  
15:23:12 38 members, and they are trying to discover any documentation  
15:23:17 39 of that that may exist in Victoria Police to provide that  
15:23:20 40 to the Royal Commission.  
15:23:21 41  
15:23:21 42 Thank you. Could I take you then to p.31 of your  
15:23:27 43 statement. 439 and 440. These changes to the human  
15:23:40 44 sources instruction, were they made in response to lessons  
15:23:44 45 learnt from the handling of Ms Gobbo?---Could I have the  
15:23:47 46 paragraphs again?  
15:23:48 47

15:23:49 1 4.39, 4.40, the changes?---No, this is November 2008.  
15:23:55 2 Ms Gobbo was being handled right up until 2009.  
15:23:58 3  
15:23:59 4 Yes?---And really the only changes that were made to  
15:24:02 5 subsequent policies arose out of the Comrie report, the  
15:24:06 6 Kellam report.  
15:24:06 7  
15:24:07 8 It is just some of these seem particularly apposite,  
15:24:11 9 particularly the third point dot, "Human sources must be  
10 properly supervised and be clear about legal and ethical  
15:24:15 11 boundaries, their activities", et cetera, but you're quite  
15:24:19 12 certain these were not made in response to Nicola  
15:24:24 13 Gobbo?---No, I don't know how they could be in my  
15:24:27 14 understanding of the time lines.  
15:24:28 15  
15:24:29 16 Time frames, no?---In that this is a policy that is  
15:24:32 17 published on 3 November. The development of policy takes  
15:24:35 18 quite a period of time before publication. It would have,  
15:24:39 19 in an estimate, would have been at least six months in the  
15:24:42 20 work to develop a policy before publication. So I don't  
15:24:46 21 think the organisation developed that aspect because of  
15:24:51 22 Ms Gobbo.  
15:24:51 23  
15:24:52 24 Okay, thank you. Now, Mr Winneke asked you about the time,  
15:24:58 25 around about the time before the SDU was formed when there  
15:25:02 26 was an international study tour done by some police  
15:25:05 27 officers, including one you have identified as Jones. He  
15:25:12 28 asked you about the Home Office, information about human  
15:25:19 29 sources with legal obligations of confidentiality and  
15:25:24 30 privilege and whether that was in the public domain. Are  
15:25:28 31 you aware at that time whether there was material available  
15:25:32 32 from the United States, from the FBI that was publicly  
15:25:37 33 available at around about that time on exactly these types  
15:25:40 34 of human sources?---The first document I believe it's  
15:25:47 35 available publicly and I'm not sure when it became  
15:25:50 36 available, but the first dated document out of the US  
15:25:56 37 Department of Justice, which sits over the top of the FBI  
15:26:00 38 and other agencies, which I've seen was dated 2006 but I'm  
15:26:04 39 not sure when that became publicly available. It's a  
15:26:08 40 document that was updated in 2010 of which I have a copy of  
15:26:12 41 and it's their current document.  
15:26:14 42  
15:26:14 43 Yes?---But I'm not sure at what times they became publicly  
15:26:18 44 available.  
15:26:19 45  
15:26:19 46 So it was at least available since 2006 but whether it was  
15:26:23 47 publicly available you don't know?---I'm not aware.



15:26:26 1  
15:26:26 2 Police services throughout the world are generally generous  
15:26:32 3 about sharing this information amongst themselves?---Not  
15:26:36 4 quite right unfortunately. I wish that was the case. So  
15:26:39 5 even after my current work talking to a number of  
15:26:43 6 jurisdictions we're still waiting for the sign off and  
15:26:48 7 approvals from those jurisdictions and countries to receive  
15:26:52 8 certain documentation which we discussed which may be  
15:27:01 9 considered by them to be highly protected information which  
15:27:03 10 would not exist in the public domain and that process is  
15:27:09 11 ongoing.

15:27:09 12  
15:27:11 13 Page 56 of your statement, paragraph 5.64. You say that as  
15:27:18 14 a result of your recent study tour you are preparing a  
15:27:22 15 paper to consider aspects of covert human source programs  
15:27:27 16 which could well be of relevance to the Commission?---It  
15:27:30 17 will. I dare say it will take me a number of months to  
15:27:33 18 prepare, prepare that paper. There's a number of  
15:27:38 19 considerations that need to go into it. We need to do  
15:27:43 20 analytical work on some of the models that we've seen.  
15:27:46 21 Form a view around - you know, I have some preliminary  
15:27:47 22 views but we haven't done the work yet, out of some of the  
15:27:52 23 information we've just recently gained.

15:27:54 24  
15:27:54 25 Hopefully there's a prospect at least that you will finish  
15:27:59 26 it before the Commission reports on the final terms of its  
15:28:03 27 recommendations?---I can image that is highly likely, yes  
15:28:08 28 absolutely.

15:28:08 29  
15:28:08 30 You'll provide the Commission with a copy of the report  
15:28:11 31 when it's ready?---Yes.

15:28:12 32  
15:28:12 33 Thank you. Then over to 7.4 on p.58, please, of your  
15:28:25 34 statement. You refer here to the Comrie findings about,  
15:28:34 35 particularly at 7.4C, police handlers may have discussed  
15:28:39 36 with Ms Gobbo matters she was involved in before the Office  
15:28:43 37 of Police Integrity and the Australian Crime Commission in  
15:28:45 38 circumstances where such proceedings are subject to  
15:28:48 39 confidentiality notices. Did you give consideration or do  
15:28:56 40 you know whether Victoria Police gave consideration to  
15:28:59 41 whether Nicola Gobbo or the police handlers committed an  
15:29:03 42 offence in terms of breaching confidentiality notices?---I  
15:29:12 43 know that I haven't given personal consideration to that.  
15:29:15 44 So this was the Comrie report of 2012. It was managed in a  
15:29:19 45 response by Victoria Police and that consideration may well  
15:29:22 46 have occurred, an assessment may well have occurred. I'm  
15:29:28 47 just not aware of it.

15:29:30 1  
15:29:30 2 But you understand when evidence is given to the OPP, which  
15:29:34 3 then existed, it doesn't exist any more, in one of these  
15:29:40 4 and confidentiality notices are served, then the person on  
15:29:44 5 whom the confidentiality notice served here was Ms Gobbo,  
15:29:49 6 is not to discuss that with other people?---Yes, I'm  
15:29:53 7 absolutely aware of that, yes, the OPI.  
15:29:55 8  
15:29:56 9 It is clear from the material that's come to light before  
15:30:00 10 the Commission that that was discussed with her, between  
15:30:03 11 her and her handlers or some of her handlers?---Again,  
15:30:09 12 whether that issue has been investigated I'm not aware, but  
15:30:14 13 there may well be witnesses before you that can answer that  
15:30:17 14 question.  
15:30:18 15  
15:30:18 16 You'd be aware if Ms Gobbo did discuss that evidence with,  
15:30:25 17 giving the evidence before the OPI with her handlers in  
15:30:29 18 breach of a confidentiality notice that would be an  
15:30:34 19 offence?---That may well be an offence. I haven't seen any  
15:30:37 20 information as to that. Keep in mind that I haven't viewed  
15:30:41 21 the source contact reports in the Loricated database. I  
15:30:44 22 know that we have supplied all of that material to the  
15:30:47 23 Royal Commission.  
15:30:48 24  
15:30:49 25 So then if I could take you to p.60, subparagraph K, you  
15:31:00 26 say despite a range of troubling matters emerging, here you  
15:31:04 27 were talking about Ms Gobbo, health issues, economic  
15:31:08 28 issues, threats of legal action, threats to lie and an  
15:31:11 29 intimate relationship with a member, are you there  
15:31:14 30 referring to a member of the police service, a member of  
15:31:17 31 the SDU or something else?---I keep in mind this is  
15:31:20 32 Mr Comrie's recommendations, I'm not sure who Mr Comrie was  
15:31:25 33 referring to there. I believe he's inferring it's an  
15:31:30 34 intimate relationship with a member and I assume he means  
15:31:34 35 members of the Police Force.  
15:31:35 36  
15:31:35 37 I'm not sure that that's a direct quote you see or whether  
15:31:39 38 that's a summary in Mr Comrie's report, but anyway you  
15:31:43 39 understood that to be a member of the Police Force?---Yes,  
15:31:46 40 I do.  
15:31:46 41  
15:31:53 42 Thank you. And then finally on p.68, the bottom of the  
15:31:56 43 page, 9.5, you said by way of letters the results of that  
15:32:09 44 review were advised to IBAC. In particular it was  
15:32:13 45 determined that no disciplinary process would be commenced  
15:32:18 46 against any serving member subject to that review. I guess  
15:32:21 47 this is what has just been touched upon. You don't know

15:32:26 1 who determined that?---Yes, so that was on the  
15:32:30 2 recommendation of Assistant Commissioner Russell Barrett  
15:32:33 3 who heads our Professional Standards Command who oversaw  
15:32:37 4 the Kellam report review panel.  
15:32:39 5  
15:32:40 6 All right then, thank you. Yes, thank you. Now, I think  
15:32:47 7 in terms of any application for leave to cross-examine on  
15:32:52 8 behalf of Ms Gobbo, you're reserving your right at this  
15:32:56 9 stage and you might want to do that later, Mr Nathwani?  
10  
11 MR NATHWANI: Absolutely.  
12  
15:33:00 13 COMMISSIONER: When we have the appropriate documents and  
15:33:03 14 exhibits.  
15:33:03 15  
15:33:04 16 MR NATHWANI: Precisely.  
15:33:04 17  
15:33:05 18 COMMISSIONER: All right then, thank you.  
15:33:05 19  
15:33:06 20 MR CHETTLE: Commissioner, I do seek leave to cross-examine  
15:33:08 21 this witness.  
22  
23 COMMISSIONER: Yes.  
24  
15:33:09 25 MR CHETTLE: I have indicated to Mr Winneke the nature and  
15:33:12 26 breadth of the issues I want to raise and so I make that  
15:33:15 27 application.  
15:33:15 28  
15:33:16 29 COMMISSIONER: Thank you. Nobody wants to speak against  
15:33:18 30 it? All right then, I'm sure you will be as concise as you  
31 can.  
32  
15:33:26 33 MR CHETTLE: I'll endeavour to be.  
34  
35 COMMISSIONER: Yes, thanks Mr Chettle.  
15:33:27 36  
37 <CROSS-EXAMINED BY MR CHETTLE:  
38  
15:33:28 39 Can I start with one short matter. I don't know,  
15:33:31 40 Commissioner, whether or not the name I've given to the  
15:33:34 41 chief of the police should be given a pseudonym or not, and  
15:33:39 42 if it hasn't been told I won't. You were asked about Jones  
15:33:44 43 and overseas trips. Do you know a man by the name of Jeff  
15:33:48 44 Maclean or have you heard of him?---I know two Jeff  
15:33:53 45 Macleans in Victoria Police.  
15:33:54 46  
15:33:54 47 All right?---One of them still is, I think one's a former,

15:33:59 1 but they both were called that name.

15:34:01 2

15:34:01 3 What I want to suggest to you is that there were overseas  
15:34:05 4 trips, that Jones went to America and Canada and Maclean  
15:34:10 5 went to England and Ireland?---That could well be right.  
15:34:14 6 Part of my memory from this is the Kellam report refers to  
15:34:18 7 a number of overseas trips and obviously names a couple of  
15:34:22 8 people in the context of those overseas trips which is  
15:34:27 9 where I think my memory comes from.

15:34:29 10

15:34:30 11 Again, just a small point. On paragraph 3.116 the  
15:34:32 12 investigations in relation to the relationships that  
15:34:36 13 Ms Gobbo may have had with police officers. It is not  
15:34:40 14 suggested in any way at any time that any members of the  
15:34:45 15 SDU had an intimate or sexual relationship with her?---I am  
15:34:49 16 aware of no such allegation.

15:34:50 17

15:34:51 18 The allegations as such relate to other police officers and  
15:34:55 19 are subject to investigation?---That's correct.

15:34:57 20

15:34:57 21 Can I take you to the SDU generally. That unit was set up  
15:35:04 22 after a pilot operation in 2004 to deal with an issue the  
15:35:09 23 Victoria Police had confronted in relation to the way in  
15:35:11 24 which they were handling informers?---Yes, that's correct.

15:35:16 25

15:35:17 26 To be fair, the police were really almost haemorrhaging at  
15:35:20 27 that stage with allegations about members of the Drug Squad  
15:35:25 28 and informers in fact being killed?---That's correct.

15:35:28 29

15:35:30 30 Prior to the formation of the SDU or whatever the  
15:35:35 31 predecessor's pilot unit was known as, there had been the  
15:35:39 32 old-fashioned that we've heard a bit about from 95 and 99  
15:35:43 33 where names were effectively put in envelopes and fairly,  
15:35:48 34 an informer was managed by the investigator  
15:35:51 35 usually?---Correct.

15:35:52 36

15:35:53 37 So it was in that regard that Mr Jones was tasked to look  
15:36:00 38 at improving the way in which informers were dealt  
15:36:05 39 with?---Correct.

15:36:05 40

15:36:05 41 Now, the unit that was - he was effectively tasked to look  
15:36:10 42 at alternatives, write papers and put together a pilot,  
15:36:15 43 which he did?---That's the way I understand it, yes.

15:36:17 44

15:36:17 45 And thereafter, after that pilot was evaluated the SDU came  
15:36:21 46 into existence?---That's correct.

15:36:23 47

15:36:23 1 The officers who made up that SDU were all of, firstly they  
15:36:31 2 were experienced?---Yes, I believe that's absolutely the  
15:36:35 3 case.  
15:36:35 4  
15:36:35 5 And indeed there's been some discussion about rank, but the  
15:36:39 6 ranks were important because you couldn't get a position in  
15:36:42 7 the SDU unless you had a particular rank, whatever that  
15:36:44 8 might be?---That's absolutely correct.  
15:36:47 9  
15:36:47 10 There was a minimum standard effectively?---Yes.  
15:36:50 11  
15:36:50 12 Two of those members that are - have you got the list in  
15:36:54 13 front of you?---Yes.  
15:36:56 14  
15:36:56 15 I'm sure I am going to slip up at some stage, but Jones and  
15:37:02 16 Currie were both even more experienced than the rest of  
15:37:05 17 them?---That's correct.  
15:37:06 18  
15:37:07 19 You know both those members personally I take it, do  
15:37:10 20 you?---Yes, I do.  
15:37:11 21  
15:37:13 22 To become a member of the SDU in the positions that they  
15:37:18 23 held, all members had to pass thorough probity checks?---I  
15:37:28 24 would have assumed so. I wasn't involved in the set-up but  
15:37:31 25 you should imagine that that's the case. Anyone working in  
15:37:37 26 my command at the present time is subject to a much  
15:37:39 27 heightened probity check requirement than working elsewhere  
15:37:44 28 in the organisation because of the types of functions we  
15:37:46 29 undertake in the Command.  
15:37:47 30  
15:37:48 31 They are being trusted with some of the most important  
15:37:52 32 information in the possession of the police?---I agree.  
15:37:54 33  
15:37:54 34 Mr Jones, I'll start with him, was an extraordinarily  
15:37:59 35 decorated officer?---Typically the word decorated refers to  
15:38:05 36 awards and things like that, so I believe that could well  
15:38:08 37 be the case.  
15:38:09 38  
15:38:09 39 [REDACTED]  
15:38:15 40 [REDACTED]  
15:38:20 41 [REDACTED]  
15:38:25 42 [REDACTED]  
15:38:28 43 [REDACTED]  
15:38:32 44 [REDACTED]  
15:38:32 45 [REDACTED]  
15:38:37 46 [REDACTED]  
15:38:40 47 [REDACTED]

15:38:40 1 MR CHETTLE: I follow the difficulty?---I have no  
15:38:43 2 hesitation in saying that a number of them will have  
15:38:46 3 received a number of awards of distinction throughout their  
15:38:50 4 career. I can't, I don't doubt anything that you would say  
15:38:54 5 in the context of the awards any one of those individuals  
15:38:58 6 would have received.  
15:38:59 7  
15:38:59 8 Medals and commendations, put it that way?---Correct.  
15:39:03 9  
15:39:04 10 So we are dealing with people of the utmost  
15:39:08 11 integrity?---That is absolutely a correct assumption, that  
15:39:12 12 people working in that location would have been considered  
15:39:15 13 that by the people in charge at that time.  
15:39:18 14  
15:39:18 15 You know some of the people on that list of names in front  
15:39:21 16 of you personally I take it. I mentioned Jones and  
15:39:25 17 Currie?---I know everyone on that list.  
15:39:27 18  
15:39:29 19 And they're all in that category of individuals? I'm  
15:39:35 20 sorry, not all my clients?---No. Listen I'm conscious that  
15:39:39 21 I wouldn't put all of them in that category but many of  
15:39:42 22 them are.  
15:39:43 23  
15:39:43 24 I'll do them one at a time. Jones you know, Brennan you  
15:39:47 25 know?---Yes.  
15:39:48 26  
15:39:51 27 Mr Anderson is no longer alive, is that the  
15:39:54 28 position?---That's correct.  
15:39:55 29  
15:39:56 30 Mr Klein is. Mr Borne and Mr Stanton are my clients,  
15:40:04 31 together with Mr Currie, they are the six that I  
15:40:07 32 represent?---And I hold the views that I just spoke about  
15:40:10 33 in context of Jones for those other members.  
15:40:17 34  
15:40:17 35 Thank you, that's helpful. So you were asked about - - -  
15:40:21 36  
15:40:21 37 COMMISSIONER: Could I just interrupt for a moment. I  
15:40:23 38 haven't got an up-to-date list. The last two names aren't  
15:40:29 39 on it. Could someone give me one, please? Thanks very  
15:40:36 40 much.  
15:40:41 41  
15:40:43 42 MR CHETTLE: The two senior members, Jones and - well Jones  
15:40:48 43 is no longer a member of the Police Force, is that  
15:40:51 44 correct?---That's correct.  
15:40:52 45  
15:40:52 46 But he was a policeman for 35 years?---A very long time  
15:40:57 47 though, yes, that's correct.

15:40:57 1  
15:40:57 2 Mr Currie is still a member of the Police Force?---That's  
15:41:00 3 correct.  
15:41:00 4  
15:41:00 5 And he's been a police member for again over 30  
15:41:04 6 years?---Yes, that's correct.  
15:41:05 7  
15:41:09 8 I'm instructed, and you're probably in a position to  
15:41:13 9 confirm, that they have never been the subject of any  
15:41:15 10 disciplinary action?---I'm not in a position to know that  
15:41:21 11 but I can accept your proposition, I do not know of any  
15:41:24 12 discipline history for these members.  
15:41:27 13  
15:41:28 14 And they hold, certainly Mr Currie holds top secret  
15:41:34 15 clearance within the Police Force?---Yes, he would have had  
15:41:38 16 that clearance at a particular time and may well still hold  
15:41:43 17 that clearance level.  
15:41:44 18  
15:41:45 19 Well to put it again in context, Mr Currie left the SDU  
15:41:51 20 before it was disbanded?---I think that's correct. He had  
15:41:58 21 moved on from that location.  
15:42:00 22  
15:42:00 23 He had?---That's right.  
15:42:01 24  
15:42:02 25 But subsequently he was called back to effectively work in  
15:42:10 26 HSMU?---Yes, Mr Currie indeed worked in the HSMU during my  
15:42:17 27 time as the Assistant Commissioner in charge of this  
15:42:20 28 Command.  
15:42:20 29  
15:42:20 30 And he got back to fulfil the role at HMSU subsequent to  
15:42:26 31 the Kellam report?---Yes.  
15:42:29 32  
15:42:31 33 Now, you said, and you were asked questions by Mr Winneke  
15:42:35 34 in relation to the report that Mr Pope and Mr Sheridan  
15:42:45 35 effectively drove that led to the recommendation to disband  
15:42:51 36 the unit, the intelligent review you in - - - ?---The  
15:42:52 37 Covert Services Division review, yes.  
15:42:56 38  
15:42:56 39 You said that you would assume that that committee spoke to  
15:43:00 40 members of the SDU before publishing its finding? Do you  
15:43:06 41 remember giving that answer?---That is my assumption and I  
15:43:08 42 give that assumption because I was doing a review at the  
15:43:11 43 same time so I'm conscious of our requirements either under  
15:43:16 44 the enterprise bargaining agreement in place with sworn  
15:43:21 45 members at that time or the public sector service agreement  
15:43:27 46 with CPSU members at that time required engagement in terms  
15:43:31 47 of review processes. So it was something that I was doing

15:43:35 1 in my division and I was regularly meeting with  
15:43:38 2 representatives from those unions and the workforce in  
15:43:41 3 context of my review, so I'm making an assumption,  
15:43:45 4 Mr Chettle, that the same would have occurred in that  
15:43:48 5 review but I wasn't involved in that component.  
15:43:50 6  
15:43:50 7 I understand you weren't but you would expect it to be  
15:43:54 8 because there were requirements that they would be?---Yes,  
15:43:57 9 that's right.  
15:43:57 10  
15:43:57 11 So you would be very, very surprised, if not appalled if  
15:44:00 12 they were not spoken to at all?---Yes, it's something that  
15:44:04 13 should have occurred. If it hasn't occurred I'm not the  
15:44:08 14 person to answer why, but there may well be, someone may  
15:44:13 15 well believe they've got a valid reason for not doing that,  
15:44:20 16 but my experience is, and the requirements under various  
15:44:22 17 enterprise agreements and from personal knowledge is that  
15:44:25 18 you end up with a much happier workforce if they're engaged  
15:44:30 19 through change, that you speak to them, they take some  
15:44:33 20 ownership over it and you include them in the  
15:44:36 21 decision-making process.  
15:44:37 22  
15:44:38 23 On that steering committee that supposedly sat in relation  
15:44:43 24 to that report, you told us about Mr Pope being the  
15:44:47 25 Chairman and Mr Sheridan having some contribution.  
15:44:51 26 According to the report Mr Biggin was also on that  
15:44:56 27 committee, was he not?---Yes, he was the Superintendent  
15:44:58 28 within the Command at that period of time.  
15:45:00 29  
15:45:02 30 It would be a big surprise to you if Mr Biggin wasn't  
15:45:06 31 informed until ten minutes prior to the disbandment of the  
15:45:11 32 unit, or would that not surprise you?---I don't recall  
15:45:20 33 exactly how I came to learn about the disbandment of the  
15:45:23 34 unit myself. It certainly wasn't by reading that report at  
15:45:28 35 that time. I recall that I found out either very shortly  
15:45:35 36 before or at the time the decision was made more public  
15:45:39 37 within the organisation.  
15:45:40 38  
15:45:40 39 But you would expect Biggin's named on the report as being  
15:45:46 40 a member of the committee, it would be surprising if he  
15:45:49 41 didn't find out until it happened effectively?---And my  
15:45:53 42 name is on that report as well, Mr Chettle.  
15:45:55 43  
15:45:56 44 You're in the same boat?---I wasn't aware of the decision  
15:46:00 45 making until very late in the piece in context of that.  
15:46:03 46 Keeping in mind the Terms of Reference or what the review  
15:46:06 47 report sets out is what they were considering at the start



15:46:10 1 of the review may not necessarily lead a person to conclude  
15:46:17 2 that it might end up with a disbandment of a unit. I was  
15:46:23 3 involved in two aspects of the review. It does, it is not  
15:46:29 4 the way to find out about a review if Mr Biggin has learnt  
15:46:35 5 about the closure of a unit very, very shortly prior to  
15:46:40 6 that actually occurring.  
15:46:40 7  
15:46:41 8 You're supposed to be on the steering committee?---I agree.  
15:46:44 9  
15:46:48 10 So you're familiar with the concept you don't have a review  
15:46:51 11 unless you know what the result is going to be?---I've  
15:46:55 12 certainly heard that before as a saying.  
15:46:57 13  
15:46:57 14 And was that - you don't know whether that was the case in  
15:47:02 15 relation to that particular review?---No, I don't. You may  
15:47:06 16 recall I had an answer to Mr Winneke earlier on that  
15:47:10 17 indicated that I had some awareness of something happening  
15:47:15 18 during periods of time that I was upgraded. I was told  
15:47:18 19 that Assistant Commissioner Pope would keep responsibility  
15:47:22 20 for that. I knew something was happening that was a  
15:47:26 21 closely guarded secret within the Command, if not the  
15:47:30 22 organisation. I wasn't aware what that was.  
15:47:33 23  
15:47:33 24 We now know it was Comrie was happening?---Yes, that's  
25 correct.  
26  
15:47:38 27 And this review is happening?---Yes.  
15:47:39 28  
15:47:39 29 All of which led to the demise of the SDU?---Yes, that's  
15:47:43 30 correct.  
15:47:43 31  
15:47:44 32 And you described it as causing some anguish and angst  
15:47:46 33 amongst the members?---To say the least, Mr Chettle.  
15:47:50 34  
15:47:50 35 They were highly disappointed with they way they were  
15:47:54 36 treated by the Police Force?---I think many of the members  
15:47:56 37 were quite distressed to learn of the closure of the unit.  
15:48:00 38  
15:48:00 39 That is whole the point about steering committees, it's to  
15:48:04 40 drive the bus over somebody?---Not in my view. Steering  
15:48:06 41 committee that I'm involved in, that is not one of the  
15:48:09 42 Terms of Reference and I have great respect for the  
15:48:13 43 membership of Victoria Police and the members who work for  
15:48:16 44 me and the way I engage them through any review process.  
15:48:20 45  
15:48:21 46 It is not your review I'm being critical of, it's this one.  
15:48:27 47 Certainly expressed the view strongly that they had been

15:48:32 1 effectively thrown under the bus by the decision to disband  
15:48:36 2 them?---Yes, that's my belief.  
15:48:39 3  
15:48:40 4 Well, along comes the Comrie report. If I can put this in  
15:48:45 5 overview. The results of the Comrie report found their way  
15:48:48 6 in some great measure into the Kellam report and ultimately  
15:48:53 7 to the steps that were taken that lead us here  
15:48:58 8 today?---That's correct.  
15:48:58 9  
15:48:59 10 Nobody has ever done a critical analysis of the Kellam  
15:49:04 11 report, I take it, and by critical analysis I mean look at  
15:49:09 12 the underlying assumptions and material that Mr Comrie  
15:49:15 13 purported to look at?---I'm not aware of whether that has  
15:49:19 14 occurred or not. Keep in mind that my first exposure to  
15:49:24 15 the Comrie report was towards the latter part of 2016.  
15:49:32 16  
15:49:32 17 It got sat on because of what happened - - - ?---I'm not  
15:49:35 18 saying that it's been sat on, they're your words,  
15:49:38 19 Mr Chettle. I just don't have that knowledge, I wasn't  
15:49:42 20 involved at that period of time.  
15:49:44 21  
15:49:44 22 MR HOLT: He was referred to the OPI in 2012, phrases like  
15:49:49 23 "it was sat on" are just inaccurate. He was referred to  
15:49:53 24 the OPI in 2012.  
15:49:53 25  
15:49:53 26 MR CHETTLE: It went to OPI in 2012. It wasn't able to be  
15:49:58 27 examined by Victoria Police until after it was released to  
15:50:03 28 you?---To - - -  
15:50:04 29  
15:50:04 30 No one was in a position to look at the content of the  
15:50:07 31 Comrie report to look at the quality of the information  
15:50:11 32 until recently?---No, I don't think that's the case. I  
15:50:14 33 think the report was, it was requested by a number of  
15:50:19 34 people within Victoria Police, the Comrie report. It was  
15:50:24 35 provided back into Victoria Police. They've had, they have  
15:50:29 36 clearly had an opportunity to make a full assessment of  
15:50:31 37 that report. I'm just not the person to provide you the  
15:50:34 38 guidance or assistance as to what occurred as a result of  
15:50:37 39 that.  
15:50:37 40  
15:50:38 41 All right. Can you tell me who - - - ?---Other than the  
15:50:40 42 acquittal of most of the recommendations.  
15:50:42 43  
15:50:42 44 Who was it who got the report, who commissioned it and  
15:50:46 45 received it?---I'm not sure if I cover that in my  
15:51:08 46 statement. I know I talk about when it was commissioned.  
15:51:11 47

15:51:11 1 MR HOLT: 8.13 and following if it assists.  
15:51:19 2  
3  
4 COMMISSIONER: Thank you.  
5  
15:51:19 6 WITNESS: Thank you, Mr Holt.  
15:51:22 7  
15:51:23 8 MR CHETTLE: Ashton and Cartwright?---Yes. So my  
15:51:27 9 information is that on 3 November 2011 then Deputy  
15:51:32 10 Commissioner Ashton and former Deputy Commissioner  
15:51:34 11 Cartwright commissioned former Chief Commissioner Comrie to  
15:51:38 12 undertake a review of Victoria Police's involvement with  
15:51:42 13 Ms Gobbo as a human source. And the report was delivered  
15:51:45 14 on 30 July 2012.  
15:51:47 15  
15:51:47 16 I got that. Does that mean that they were the ones who  
15:51:50 17 made the decision or they signed off on it or was a  
15:51:55 18 committee setting it up?---I don't have that information.  
15:51:58 19  
15:52:01 20 You don't know. You have a copy of that report with you,  
15:52:04 21 the Comrie report?---I do in one of the folders behind me.  
15:52:07 22  
15:52:08 23 Would it be convenient if you obtain one?  
24  
15:52:43 25 COMMISSIONER: Do we have a number so we can get this  
15:52:45 26 report up on the screen?  
15:52:47 27  
15:52:47 28 MR HOLT: Commissioner, can I just raise an issue? My  
15:52:50 29 learned friend Mr Winneke may be able to assist. The  
15:52:52 30 Comrie report is still the subject of suppression orders.  
31  
32 COMMISSIONER: The subject of suppression orders until 11  
15:52:58 33 April.  
15:52:58 34  
15:52:58 35 MR HOLT: We are aware that there are redactions and we've  
15:53:00 36 been dealing with them we hope in a sensible way so far but  
15:53:02 37 I'm not sure we would - some of us may be in breach of  
15:53:04 38 certain provisions if we - - -  
15:53:06 39  
15:53:07 40 MR WINNEKE: Commissioner, that's right, and it occurred to  
15:53:09 41 me - the question I suppose is how it's dealt with. I  
15:53:14 42 don't know what the redactions are. There's no one here  
15:53:22 43 who is part of the proceeding in the Supreme Court as I  
15:53:26 44 understand it, or at least legal practitioners. As I  
15:53:28 45 understand it the question is whether it can be - - -  
15:53:32 46  
15:53:33 47 COMMISSIONER: Published.

15:53:33 1  
15:53:34 2 MR WINNEKE: - - - disclosed. Well I'm not too sure if it  
15:53:37 3 is disclosed or published. If we shutdown the live stream  
15:53:41 4 I am assume it is not being published, I'm not too certain  
15:53:45 5 whether that is sufficient because of the issue of  
15:53:48 6 disclosure. I know aspects of it have already been  
15:53:52 7 referred to in the report of Mr Paterson. Now, strictly  
15:53:57 8 speaking it may well be that - there are also references to  
15:54:02 9 it in Justice Ginnane's judgment but certainly we'd be safe  
15:54:07 10 if we confined ourselves to aspects of it which were in  
15:54:16 11 Justice Ginnane's judgment but it may well be that wouldn't  
15:54:19 12 satisfy Mr Chettle's purposes.  
15:54:22 13

15:54:22 14 MR HOLT: There are two issues that emerge, Commissioner.  
15:54:24 15 The first is that the report itself obviously is still  
15:54:27 16 subject to that embargo until 12 April. The other issue is  
15:54:31 17 not with respect to our learned friend, the simpler  
15:54:33 18 question is whether or not we could close the live stream  
15:54:36 19 because there is a process that's been undertaken which has  
15:54:39 20 recently been close to concluded as I'm instructed to  
15:54:43 21 provide a redacted version essentially of the Comrie report  
15:54:46 22 which will then be the version which is released on 12  
15:54:49 23 April. So that might even be the whole version. We have a  
15:54:53 24 copy of that with those red box redactions but it's only  
15:54:57 25 very recently been done as I'm instructed in the context of  
15:55:00 26 that proceeding. We agree with our learned friend that if  
15:55:02 27 it stays entirely within what is already in the public  
15:55:07 28 domain in terms of Justice Ginnane's judgment there could  
15:55:10 29 be no issue. Beyond that regrettably by the terms of those  
15:55:13 30 orders we may be required simply to wait for this aspect of  
15:55:15 31 Mr Chettle's cross-examination. But of course we're aware  
15:55:18 32 that Assistant Commissioner Paterson will be returning.  
15:55:21 33

15:55:21 34 COMMISSIONER: Yes. Mr Chettle, you understand.  
15:55:23 35

15:55:23 36 MR CHETTLE: I do and I certainly don't want to breach any  
15:55:25 37 orders. I can deal with the parts that are dealt with in  
15:55:31 38 Justice Ginnane's judgment in general in any event.  
39

15:55:34 40 Justice Ginnane in general reproduced a couple of the  
15:55:40 41 comments or findings that Mr Comrie found in relation to  
15:55:43 42 the conduct of the SDU in his judgment, do you agree with  
15:55:48 43 that?---As I indicated to Mr Winneke yesterday, I haven't  
15:55:52 44 had the opportunity to read the whole judgment at the  
15:55:55 45 present time but it does not - I don't doubt you,  
15:55:59 46 Mr Chettle.  
15:55:59 47

15:56:02 1 In essence, there was criticism of the paperwork, diaries,  
15:56:11 2 records maintained by the SDU, do you agree with  
15:56:14 3 that?---That's correct.  
15:56:15 4  
15:56:16 5 There were findings that prima facie the SDU had sought  
15:56:22 6 privileged information from Gobbo and tasked her in  
15:56:27 7 strategic ways in relation to her clients?---There is that  
15:56:33 8 type of finding there.  
15:56:35 9  
15:56:35 10 Now, the fact is, as you've referred to in a system called  
15:56:41 11 Interpose, Comrie had a file of material which he described  
15:56:45 12 as having been shuffled apparently and uploaded on to the  
15:56:49 13 Interpose system?---Which was an incomplete file, but yes.  
15:56:53 14  
15:56:53 15 That's all he had?---That's correct.  
15:56:55 16  
15:56:56 17 And it was an Interpose upload in 2009, subsequent to SDU  
15:57:07 18 dealing with Gobbo?---That's my belief, yes.  
15:57:09 19  
15:57:10 20 Now, that upload of material to Interpose, do you know who  
15:57:16 21 did that? Is it capable of ascertaining who or why that  
15:57:20 22 was done?---I'm sure it will be possible. I've never had  
15:57:25 23 that question asked of me before but Interpose is such a  
15:57:30 24 system that it has an audit log to it so that anyone that  
15:57:35 25 takes any action in that system, it can be tracked and  
15:57:38 26 traced.  
15:57:39 27  
15:57:39 28 Because the big picture I want to put to you is that what  
15:57:43 29 happened is that Comrie was given a rehash of part of a  
15:57:46 30 file done by someone unknown and didn't have access to the  
15:57:49 31 true records of the SDU?---That's exactly what Mr Comrie  
15:57:55 32 found, which caused him to make recommendation 1. So on  
15:58:02 33 10, 11 and 12 of his report he goes into quite some detail  
15:58:05 34 about that.  
15:58:06 35  
15:58:06 36 But he does it blaming SDU for their inaccurate  
15:58:11 37 records?---I'm not so sure that it's just framed blaming  
15:58:14 38 the SDU. I think what his report identifies is that there  
15:58:18 39 is a period of time that the record keeping was on very  
15:58:23 40 different systems and then at a point in time there were  
15:58:27 41 records kept on Ms Gobbo as a human source by the Source  
15:58:34 42 Development Unit on Interpose and then at some point in  
15:58:37 43 time the previous records which weren't on Interpose got  
15:58:40 44 uploaded. That's my understanding but I haven't checked  
15:58:43 45 that fact for myself but that's my understanding of the  
15:58:45 46 Comrie report.  
15:58:47 47

15:58:47 1 Let me tell you. Mr Justice Ginnane says, quote at  
15:58:51 2 paragraph 40, "The extracts from police diaries and ICRs on  
15:58:55 3 which the ICRs relied suffered from incompleteness, lack of  
15:59:00 4 context of the circumstances to which they refer and  
15:59:01 5 unreliability. The probative value of those documents in  
15:59:05 6 determining issues about EF's role was in many issues  
15:59:09 7 unclear. The police diaries are handwritten and in many  
15:59:13 8 instances are difficult to read and did not permit the  
15:59:16 9 drawing of firm conclusions"?---I don't doubt that but the  
15:59:20 10 police diaries wouldn't form part of the human source file  
15:59:25 11 on Interpose. Source contact reports is the way the  
15:59:26 12 information is recorded with the source and that's the  
15:59:29 13 method that they're captured, not a police diary. That was  
15:59:34 14 well before that time the process was in a police diary.

15:59:38 15  
15:59:38 16 You would be aware of the way in which, I mean I started  
15:59:42 17 before with the pilot program and the way in which Victoria  
15:59:47 18 Police sought to deal with informer material?---Yes.

15:59:50 19  
15:59:50 20 The development of source management and the SDU was an  
15:59:55 21 organic thing that changed over time as they learnt from  
16:00:00 22 experience and developed the operating procedures and  
16:00:05 23 guidelines?---Indeed that's the way human source management  
16:00:12 24 has developed the world over, is through a practice of, a  
16:00:16 25 process for a certain period of time, often finding a  
16:00:20 26 problem or issue and then correcting policy or improving  
16:00:23 27 policy.

16:00:24 28  
16:00:24 29 And that's what happened here?---Yes, that's right. So if  
16:00:28 30 I look at the SDU and you look at the policy in place at  
16:00:31 31 the time, Comrie makes an assessment on a policy some years  
16:00:37 32 later that was in time. The policies in place at the point  
16:00:41 33 in time that the SDU operated are significantly deficient,  
16:00:46 34 in my view, as to the current policy we have in place today  
16:00:51 35 and it's through the learnings of that whole period as to  
16:00:55 36 why we now have in place the policy we have today.

16:00:58 37  
16:00:58 38 Let's go back if I can to 2005 and subsequently. I haven't  
16:01:04 39 seen the Loricated report but in bits of it that were read  
16:01:08 40 to you by Mr Winneke, it would appear that of recent time  
16:01:11 41 hard drives and other documents have been located and put  
16:01:14 42 on to the Loricated system?---No, the Loricated database,  
16:01:19 43 once the Loricated database was concluded nothing further  
16:01:23 44 has been added to that database.

16:01:24 45  
16:01:24 46 When was it concluded?---It was well before - - -  
16:01:29 47

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2018 or something?---No, it was 2014 or something like that. It was a long time ago, so it was prior to Kellam.

[REDACTED]

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COMMISSIONER: All right then. We'll adjourn until ten o'clock tomorrow morning.

ADJOURNED UNTIL FRIDAY 29 MARCH 2019