

ROYAL COMMISSION INTO THE MANAGEMENT  
OF POLICE INFORMANTS

Held in Melbourne, Victoria

On Wednesday, 5 June 2019

Led by Commissioner:	The Honourable Margaret McMurdo AC
Counsel Assisting:	Mr C. Winneke QC Mr A. Woods Ms M. Tittensor
Counsel for Victoria Police	Mr J. Hannebery SC Ms K. Argiropoulos
Counsel for State of Victoria	Mr G. Hill
Counsel for Nicola Gobbo	Mr P. Collinson QC
Counsel for DPP/SPP	Mr P. Doyle
Counsel for Police Handlers	Mr G. Chettle
Counsel for the media	Mr T. Otter
Counsel for Madafferri	Ms L. Kirwan
Counsel for T. Mokbel	Mr R. Maidment QC
Counsel for Karam & Ilic	Ms Z. Garde-Wilson
Counsel for Barbaro	Mr C. Wareham
Counsel for Sergi	Mr L. Molesworth.
Counsel for Zirilli	Mr A. Chernok
Counsel for Agresta	Mr A. Condello
Counsel for Orman	Ms S. Wallace & Ms R. Parker
Counsel for Hodson/Leonard	Mr J. King

09:58:02 1 COMMISSIONER: Yes Mr Winneke.  
10:14:04 2  
3 MR WINNEKE: Good morning, Commissioner. I appear with  
10:14:06 4 Mr Woods and Ms Tittensor to assist the Commission.  
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10:14:07 6 COMMISSIONER: Thank you.  
10:14:07 7  
10:14:07 8 MR COLLINSON: I appear for Ms Gobbo.  
10:14:11 9  
10:14:11 10 COMMISSIONER: Thank you Mr Collinson.  
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10:14:13 12 MR HANNEBERY: I appear with Ms Argiropoulos for Victoria  
10:14:16 13 Police. Hannebery.  
10:14:17 14  
10:14:18 15 COMMISSIONER: I have a large number of people here, I'm  
10:14:20 16 just finding the right one. Yes, thank you. Thank you,  
10:14:25 17 Mr Hannebery.  
10:14:27 18  
10:14:27 19 MS KIRWAN: I appear for Mr Francesco Madafferi, Ms Kirwan.  
10:14:32 20  
10:14:33 21 COMMISSIONER: You say you appear, do you need to apply for  
10:14:36 22 leave to appear?  
10:14:38 23  
10:14:38 24 MS KIRWAN: I understood from the Commissioner's  
10:14:42 25 instructing solicitors that we had been given leave to  
10:14:44 26 appear today and had been invited to come along, but if I  
10:14:48 27 do need to seek leave to formally appear then I do that  
10:14:52 28 now.  
10:14:52 29  
10:14:53 30 COMMISSIONER: Right. I see. I think that's probably  
10:14:56 31 right. You've been given leave to appear for the purposes  
10:14:59 32 of this directions hearing but only for that at the moment.  
10:15:02 33  
10:15:03 34 MS KIRWAN: Yes, thank you.  
10:15:05 35  
10:15:07 36 COMMISSIONER: Thank you, Ms Kirwan.  
10:15:09 37  
10:15:10 38 MR HILL: Commissioner, my name is Hill and I appear for  
10:15:14 39 the State.  
10:15:14 40  
10:15:15 41 COMMISSIONER: Yes, thanks Mr Hill.  
10:15:16 42  
10:15:16 43 MR CHETTLE: Commissioner, I appear with Ms Thies for the  
10:15:20 44 handlers.  
10:15:20 45  
10:15:20 46 COMMISSIONER: Thanks Mr Chettle.  
10:15:21 47

10:15:23 1 MR OTTER: Commissioner, my name is Otter. I seek leave to  
10:15:25 2 appear on behalf of Nationwide News Pty Ltd, the Herald and  
10:15:26 3 Weekly Times Pty Ltd and Nine Network Australia Pty Ltd.  
10:15:28 4  
10:15:28 5 COMMISSIONER: Thank you, Mr Otter, leave is given for the  
10:15:32 6 purpose of today's hearing. There are some other  
10:15:36 7 appearances or - yes?  
10:15:38 8  
10:15:39 9 MR MAIDMENT: Mr Maidment. I seek leave to appear on  
10:15:41 10 behalf of Mr Mokbel.  
10:15:42 11  
10:15:43 12 COMMISSIONER: Yes, for the purposes of the hearing today  
10:15:44 13 leave is granted. Thanks Mr Maidment.  
10:15:47 14  
10:15:48 15 MS GARDE-WILSON: Commissioner, Ms Garde-Wilson. I seek  
10:15:49 16 leave to appear on behalf of Rob Karam and David Ilic.  
10:15:53 17  
10:15:54 18 COMMISSIONER: Yes, thanks Ms Garde-Wilson. Again, the  
10:15:55 19 same basis, leave to appear for the purpose of this  
10:15:59 20 directions hearing.  
10:16:01 21  
10:16:01 22 MR WAREHAM: Commissioner, I seek leave to appear for  
10:16:04 23 Mr Pasquale Barbaro.  
10:16:06 24  
10:16:06 25 COMMISSIONER: That's Mr Wareham, is it?  
10:16:09 26  
10:16:10 27 MR WAREHAM: That's correct.  
10:16:11 28  
10:16:11 29 COMMISSIONER: Thanks Mr Wareham. Again, leave is given  
10:16:15 30 for this directions hearing.  
10:16:19 31  
10:16:19 32 MR MOLESWORTH: Commissioner, Lachlan Molesworth, I seek  
10:16:22 33 leave to appear for Mr Pasquale Sergi for the purposes of  
10:16:25 34 this directions hearing.  
10:16:30 35  
10:16:30 36 COMMISSIONER: Yes. Mr Molesworth, is it? Yes.  
10:16:35 37  
10:16:36 38 MR DOYLE: Commissioner, Doyle. I appear for the Office of  
10:16:39 39 Public Prosecutions and the Director of Public  
10:16:39 40 Prosecutions.  
10:16:39 41  
10:16:40 42 COMMISSIONER: Thank you Mr Doyle.  
10:16:42 43  
10:16:42 44 MR CHERNOK: Commissioner, Chernok is my name. Should  
10:16:45 45 leave be required I seek it, to appear on behalf of Mr Sam  
10:16:49 46 Zirilli.  
10:16:49 47

10:16:50 1 COMMISSIONER: Yes, leave is given to appear at this  
10:16:53 2 directions hearing.  
10:16:54 3  
10:16:54 4 MR CHERNOK: Thank you, Commissioner.  
10:16:55 5  
10:16:55 6 COMMISSIONER: Thank you.  
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10:16:59 8 MR CONDELLO: Commissioner, Condello is my name. I seek  
10:17:02 9 leave to appear on behalf of Mr Salvatore Agresta.  
10:17:06 10  
10:17:06 11 COMMISSIONER: Yes, Mr Condello, thank you. Leave is given  
10:17:08 12 to appear at the directions hearing today.  
10:17:10 13  
10:17:11 14 MS WALLACE: Commissioner, Ms Wallace. I seek leave to  
10:17:12 15 appear on behalf of Mr Orman with Ms Parker.  
10:17:15 16  
10:17:15 17 COMMISSIONER: Yes, Ms Wallace, leave is given for the  
10:17:20 18 purposes of the directions hearing today.  
10:17:22 19  
10:17:23 20 MS WALLACE: Thank you.  
10:17:25 21  
10:17:25 22 MR KING: Commissioner, my name is King. I appear on  
10:17:28 23 behalf of the children of the Hodsons. We've previously  
10:17:31 24 been granted leave to appear at this Commission.  
10:17:33 25  
10:17:33 26 COMMISSIONER: Yes, thanks Mr King. All right then. Yes,  
10:17:35 27 Mr Winneke.  
10:17:36 28  
10:17:36 29 MR WINNEKE: Commissioner, the purpose of this hearing,  
10:17:40 30 directions hearing, I suppose, for want of a better  
10:17:42 31 description, is to raise for discussion the manner in which  
10:17:45 32 the hearings concerning Nicola Gobbo's interactions with  
10:17:51 33 members of Victoria Police's Source Development Unit  
10:17:53 34 between 2005 and 2009 will proceed.  
35  
10:17:57 36 It's the desire of the Commission that the hearings be  
10:18:01 37 held in public, as has been said previously, or as much as  
10:18:07 38 reasonably possible of such hearings to be public. But  
10:18:10 39 equally, if not more importantly, that the hearings be  
10:18:13 40 accessible to persons whose convictions may have been  
10:18:19 41 affected by the conduct of Ms Gobbo and Victoria Police  
10:18:21 42 officers. In that regard we seek to bring to the  
10:18:24 43 Commissioner's attention serious concerns about the  
10:18:29 44 capacity of people whose cases may have been affected by  
10:18:32 45 Ms Gobbo's conduct and that of members of Victoria Police  
10:18:34 46 to participate in such hearings.  
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10:18:36 1 It must be borne in mind that one of the most  
10:18:39 2 significant tasks of this Commission is to report to the  
10:18:42 3 Government on the number of cases and extent to which those  
10:18:45 4 cases may have been affected by the conduct of Ms Gobbo as  
10:18:48 5 a human source. A particular concern is that many such  
10:18:53 6 people have been sentenced to periods of imprisonment and  
10:18:56 7 some are still serving those sentences. The trials that  
10:19:00 8 led to those sentences may or may not have been conducted  
10:19:04 9 fairly, but this Commission provides an opportunity for  
10:19:08 10 potentially affected parties to consider materials and make  
10:19:11 11 submissions to this Commission about whether or not their  
10:19:15 12 cases may have been affected and the extent to which they  
10:19:18 13 may have been.

10:19:19 14  
10:19:20 15 In the view of counsel assisting, it's vital for such  
10:19:24 16 people to be able to participate in these hearings should  
10:19:26 17 they wish to do so, and it appears from the applications  
10:19:29 18 this morning that a significant number of people wish to  
10:19:32 19 participate at least in this directions hearing, if not  
10:19:36 20 subsequent hearings.

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10:19:39 22 There are a number of reasons why that's important but  
10:19:42 23 significantly it enables them to assist the Commission to  
10:19:45 24 determine the extent to which their cases may have been  
10:19:48 25 affected. In order for them to do so, in our view, they're  
10:19:52 26 entitled to know what information was provided to Victoria  
10:19:55 27 Police handlers and investigators by Ms Gobbo and how such  
10:19:59 28 information was used, if it was, in their prosecutions by  
10:20:04 29 the Crown and whether such information should have been  
10:20:07 30 disclosed to them prior to their trials.

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10:20:09 32 COMMISSIONER: So much would follow, I would have thought,  
10:20:13 33 subject to what else might be said by other parties, from  
10:20:16 34 the High Court decision.

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10:20:18 36 MR WINNEKE: That's correct, Commissioner.

10:20:20 37  
10:20:20 38 COMMISSIONER: Yes.

10:20:21 39  
10:20:21 40 MR WINNEKE: The question of disclosure of information  
10:20:23 41 concerning Ms Gobbo's role in their prosecution is of  
10:20:26 42 fundamental importance to the Commission. Indeed,  
10:20:29 43 regardless of the conduct of this Commission there is  
10:20:32 44 clearly an ongoing obligation on the part of the police and  
10:20:36 45 prosecuting authorities to disclose to convicted persons  
10:20:39 46 information that may have had a bearing on their trials and  
10:20:43 47 ultimate convictions. That was the very point of the

10:20:46 1 litigation that led to the establishment of this Royal  
10:20:48 2 Commission.  
10:20:48 3

10:20:49 4 To put it bluntly, for this Commission to be able  
10:20:51 5 properly examine and reach conclusions as to the extent to  
10:20:55 6 which cases may have been affected it is necessary to  
10:20:58 7 receive appropriately founded submissions based on evidence  
10:21:01 8 from people claiming that their convictions were or may  
10:21:06 9 have been improperly obtained. To put some perspective to  
10:21:09 10 the issue, it's relevant to consider some of the matters  
10:21:11 11 that the Commission has gleaned to date.  
10:21:13 12

10:21:16 13 It's obviously apparent that Ms Gobbo was registered  
10:21:18 14 by Victoria Police as a human source on three separate  
10:21:21 15 occasions, 95, 99 and 2005. She was deregistered on about  
10:21:28 16 12 January 2009, although it seems that Victoria Police  
10:21:31 17 continued to utilise her as a human source through to  
10:21:34 18 August of 2010. Now that period largely covers the  
10:21:38 19 entirety of the period that Ms Gobbo was an active  
10:21:41 20 practising lawyer.  
10:21:43 21

10:21:45 22 The last of those registrations was by members of the  
10:21:47 23 SDU and it's intended to be the focus of upcoming hearings  
10:21:52 24 of this Commission.  
10:21:56 25

10:21:56 26 Further, by way of background, it appears on  
10:21:59 27 information currently before the Commission that no legal  
10:22:01 28 advice as to the registration of Ms Gobbo, a practising  
10:22:06 29 barrister, as a human source during the period of her  
10:22:12 30 registration was sought.  
10:22:13 31

10:22:13 32 Further, in December of 2008, more than ten and a half  
10:22:17 33 years ago, members of the Source Development Unit elevated  
10:22:20 34 their concerns to high ranking officers within Victoria  
10:22:23 35 Police that if Ms Gobbo's role as an informer was disclosed  
10:22:26 36 there was the potential of OPI, Government reviews into the  
10:22:30 37 legal and ethical implications of using a barrister to  
10:22:34 38 provide information concerning her clients and the  
10:22:36 39 possibility of appeals and unsafe verdicts.  
10:22:40 40

10:22:40 41 Similar considerations were raised by SDU officers in  
10:22:44 42 2009 where it was suggested that disclosure of Ms Gobbo's  
10:22:49 43 role may initiate a Royal Commission with the possibility  
10:22:52 44 of unsafe verdicts.  
10:22:55 45

10:22:55 46 On 5 October 2011, nearly eight years ago, Victoria  
10:23:00 47 Police received an advice from a barrister, Damian Maguire,

10:23:03 1 which foreshadowed - Gerard Maguire, I'm sorry, because of  
10:23:07 2 potential improprieties in the obtaining of information  
10:23:09 3 from Ms Gobbo concerning clients to whom she was providing  
10:23:12 4 legal services, such as Mr Mokbel, if her role was 'fully  
10:23:17 5 exposed', he would seek to challenge his conviction.  
10:23:22 6

10:23:22 7 On 30 July 2012, seven years ago, retired Chief  
10:23:29 8 Commissioner Neil Comrie completed a report into Nicola  
10:23:31 9 Gobbo's relationship with Victoria Police which found,  
10:23:34 10 amongst other things, that the relevant conduct 'has  
10:23:39 11 disregarded legal professional privilege' and 'potentially  
10:23:42 12 interfered with the right to a fair trial for those  
10:23:44 13 concerned'.  
10:23:44 14

10:23:44 15 In February 2015 the Honourable Murray Kellam, acting  
10:23:50 16 in his capacity as an IBAC Commissioner, published a report  
10:23:54 17 following an investigation into the relationship between  
10:23:57 18 Victoria Police and Nicola Gobbo. The Kellam report  
10:23:59 19 identified that the information that she provided to  
10:24:01 20 Victoria Police included information obtained from her  
10:24:03 21 clients which was prima facie subject to legal professional  
10:24:08 22 privilege or was otherwise confidential.  
10:24:10 23

10:24:11 24 Three years ago, 26 May 2016, the DPP sent a letter to  
10:24:17 25 the Chief Commissioner of Police in which the Director  
10:24:22 26 explained that he intended to make certain disclosures to  
10:24:23 27 potentially affected people regarding matters contained in  
10:24:27 28 the Kellam report.  
10:24:27 29

10:24:28 30 Following this Victoria Police commenced proceedings  
10:24:31 31 in the Supreme Court to attempt to prevent that disclosure  
10:24:34 32 from occurring.  
10:24:34 33

10:24:35 34 Justice Ginnane handed down his judgment on 19 June  
10:24:40 35 2017, two years ago, finding against Victoria Police.  
10:24:40 36

10:24:43 37 On 21 November 2017, 18 months ago, the Court of  
10:24:47 38 Appeal handed down its decision dismissing Victoria  
10:24:52 39 Police's appeal. The Court of Appeal confirmed, in other  
10:24:53 40 words, that disclosure was required.  
10:24:53 41

10:24:56 42 Then finally on 5 November 2018 the High Court handed  
10:25:00 43 down its decision dismissing Victoria Police's application  
10:25:05 44 for leave to appeal. In other words, the High Court  
10:25:11 45 confirmed that disclosure was required.  
10:25:11 46

10:25:14 47 This Commission was established thereafter on 3

10:25:16 1 December 2018.

10:25:18 2  
10:25:29 3 The Commission served a Notice to Produce on Victoria  
10:25:34 4 Police in January of this year seeking the production of  
10:25:39 5 relevant material, and in particular seeking documents  
10:25:44 6 which comprised the Loricated database which was set up, or  
10:25:50 7 at least put together as a result of the Comrie review.  
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10:25:56 9 Now since that time there has been a rolling provision  
10:26:01 10 of information in the database and despite the statutory  
10:26:09 11 right of the police to refuse to produce, or a reasonable  
10:26:12 12 excuse not to produce material which was subject to claims  
10:26:17 13 of PII, that has been provided to the Commission and  
10:26:21 14 obviously that is something of great assistance to the  
10:26:24 15 Commission. However, the Commission is unable to provide  
10:26:27 16 those documents to potentially affected persons prior to  
10:26:34 17 Victoria Police conducting a review and redacting any  
10:26:37 18 matters on which it claims public interest immunity. So  
10:26:39 19 the Commission cannot provide to people affected, save for  
10:26:42 20 some exceptions where there has been, indeed one exception,  
10:26:47 21 that is in a matter of Orman, cannot provide to potentially  
10:26:52 22 affected persons materials that may be relevant to the  
10:26:57 23 conduct of their trials until they have been viewed and  
10:27:02 24 redacted by Victoria Police.  
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10:27:05 26 Now contemporaneously with this Royal Commission  
10:27:08 27 certain potentially affected persons have brought appeals  
10:27:13 28 to the Court of Appeal or are pursuing petitions of mercy.  
10:27:16 29 It's self-evident that in those proceedings those  
10:27:20 30 individuals have the right to disclosure from Victoria  
10:27:21 31 Police in order to prosecute their appeals, although it  
10:27:24 32 should be said that there is a continuing obligation of  
10:27:29 33 disclosure in any event, regardless of any appeals and,  
10:27:35 34 indeed, regardless of this Commission.  
35

10:27:39 36 On 28 May 2019 the Chief Commissioner of Police  
10:27:43 37 provided a report to the Court of Appeal in the matters  
10:27:44 38 that I've referred to, that is Mokbel, Karam, Cvetanovski,  
10:27:47 39 and in that report it was disclosed that the process of  
10:27:54 40 disclosure in relation to Messrs Mokbel, Cvetanovski and  
10:28:01 41 Karam is not yet complete.  
42

10:28:04 43 The summary of extracts prepared in relation to  
10:28:07 44 Mr Mokbel from the Loricated database is currently being  
10:28:14 45 reviewed for public interest immunity by specialist units  
10:28:16 46 within Victoria Police and will be apparently provided to  
10:28:20 47 the Commonwealth DPP and the DPP pursuant to their ongoing



10:28:24 1 disclosure obligations to Mr Mokbel on 14 June 2019.

10:28:30 2  
10:28:31 3 A review of the actual source documents which fall  
10:28:34 4 behind that summary will take approximately two further  
10:28:37 5 weeks. So it appears that it won't be until 28 June that  
10:28:42 6 Mr Mokbel will be provided with unredacted documents.  
10:28:47 7 That's my understanding.

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10:28:49 9 Now insofar as Mr Karam is concerned, it appears that  
10:28:53 10 the timeframe - - -

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10:28:54 12 COMMISSIONER: When you say unredacted documents, you mean  
10:28:58 13 documents which have been PIIed?

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10:29:02 15 MR WINNEKE: Sorry, redacted documents.

10:29:03 16  
10:29:03 17 COMMISSIONER: Redacted documents. After the PII claims of  
10:29:05 18 Victoria Police.

10:29:06 19  
10:29:06 20 MR WINNEKE: After the claims, it appears, until 28 June.

10:29:08 21  
10:29:08 22 COMMISSIONER: Yes.

10:29:08 23  
10:29:09 24 MR WINNEKE: One assumes then there may be arguments about  
10:29:11 25 whether the PII redactions are appropriate but that may  
10:29:15 26 well get before the court. It's not clear as to when those  
10:29:18 27 matters will get before the court, if indeed there will be  
10:29:21 28 a dispute about them, but one assumes that there probably  
10:29:25 29 will be a dispute.

10:29:26 30  
10:29:27 31 In relation to Mr Karam, a summary of extracts have  
10:29:31 32 been prepared and have been reviewed for PII by Victoria  
10:29:34 33 Police and provided to the Australian Federal Police for  
10:29:36 34 their review. No timeframe is given for the provision of  
10:29:40 35 this document to the CDPD and the DPP pursuant to their  
10:29:44 36 ongoing disclosure obligations to Karam.

10:29:49 37  
10:29:49 38 The summary of extracts prepared in relation to  
10:29:52 39 Mr Cvetanovski was disclosed to the DPP on 17 May 2019.  
10:29:55 40 Source documents, being information reports, informer  
10:29:59 41 contact reports and member diary notes from the Operation  
10:30:03 42 Loricated database that refer to Mr Mokbel have been  
10:30:06 43 identified and are currently being reviewed for PII and  
10:30:09 44 will be provided to the CDPD and DPP pursuant to their  
10:30:15 45 obligations of disclosure. As I indicated, that's on 28  
10:30:19 46 June 2019.  
10:30:20 47

10:30:20 1            Apparently there are 50 audio files recording contact  
10:30:24 2            between police handlers and Ms Gobbo and 2005 and 2009.  
10:30:27 3            Transcripts of these files are ordered at the beginning of  
10:30:31 4            March of 2019 and it's understood that Victoria Police has  
10:30:35 5            received transcripts for 25 of these recordings to date.  
10:30:40 6            Now the Chief Commissioner gave no estimate of the date  
10:30:44 7            that transcripts will be provided to the CDPP and DPP, to  
10:30:48 8            Mokbel, Mr Karam or Mr Cvetanovski.  
10:30:52 9

10:30:52 10           Further, despite Mr Mokbel's legal representatives  
10:30:56 11           asserting that Ms Gobbo had been providing ongoing and  
10:31:01 12           continuous legal and tactical advice to him from about  
10:31:03 13           early 2002, Victoria Police has not yet collated documents  
10:31:07 14           relating to Ms Gobbo from the periods of 95 to 2005 and  
10:31:11 15           post 2009 into a readily accessible or searchable database.  
10:31:15 16

10:31:17 17           The Commission notes that this is despite Victoria  
10:31:20 18           Police informing the Commission they became aware that  
10:31:22 19           Ms Gobbo's initial contact with Victoria Police had been  
10:31:24 20           much earlier than it had previously been understood.  
10:31:29 21

10:31:30 22           In addition, and of concern to the Commission, this  
10:31:34 23           Commission has already conducted hearings in respect of  
10:31:37 24           this earlier time period and it appears from the report  
10:31:40 25           that a comprehensive review of this period by Victoria  
10:31:44 26           Police has not been undertaken by Victoria Police, which  
10:31:46 27           means that there may be further relevant material the  
10:31:50 28           Commission has not yet received in relation to that earlier  
10:31:52 29           period.  
10:31:53 30

10:31:56 31           Whilst Mr Mokbel's case has been prioritised in  
10:32:00 32           relation to collating any pre-2005 and post-2009 documents,  
10:32:04 33           together with Messrs Cvetanovski, Karam and Mr Orman's  
10:32:09 34           cases, it's not possible, it's said, for the Chief  
10:32:12 35           Commissioner to provide with certainty a date for  
10:32:13 36           disclosure of pre-2005 and post-2009 documents in the  
10:32:17 37           Mokbel proceedings and the Karam and Cvetanovski  
10:32:22 38           proceedings.  
10:32:23 39

10:32:29 40           In a similar manner to the appeals that I've referred  
10:32:31 41           to, in order to be able to properly participate in this  
10:32:37 42           Royal Commission potentially affected persons require  
10:32:40 43           disclosure from Victoria Police. Without that disclosure  
10:32:43 44           it's difficult to see how they can participate in the Royal  
10:32:46 45           Commission in any meaningful way. Because of the number of  
10:32:50 46           potentially affected cases it's been determined that those  
10:32:53 47           people in custody whose cases have potentially been

10:32:56 1 affected should be afforded a degree of priority. Many of  
10:33:01 2 those people have sought leave to appear or make  
10:33:04 3 submissions and on the face of it they should be permitted  
10:33:07 4 to do so. Indeed, pursuant to provisions of the *Inquiries*  
10:33:11 5 *Act* this Commission is obliged to comply with the  
10:33:14 6 requirements to afford procedural fairness.

10:33:16 7  
10:33:17 8 In our submission, in the circumstances of this  
10:33:21 9 Commission, procedural fairness requires amongst other  
10:33:24 10 matters that the disclosure of critical issues is necessary  
10:33:28 11 to be made to potentially affected persons, and of  
10:33:32 12 disclosure of information that's credible, relevant and  
10:33:35 13 significant to those issues.

10:33:38 14  
10:33:38 15 Further, it's our submission that those people ought  
10:33:41 16 be given an opportunity to take part in this hearing, in  
10:33:47 17 these hearings, to make sensible submissions and, if  
10:33:52 18 necessary, to cross-examine witnesses.

10:33:54 19  
10:33:58 20 That raises a fundamental question - - -

10:34:00 21  
10:34:00 22 COMMISSIONER: That's obviously then - Mr Winneke, you  
10:34:02 23 would be supporting their applications for leave to appear  
10:34:07 24 and to cross-examine relevant witnesses?

10:34:12 25  
10:34:13 26 MR WINNEKE: If necessary, and in certain circumstances.  
10:34:15 27 If the matters that they propose to cross-examine about are  
10:34:18 28 relevant to the Terms of Reference of this Inquiry and are  
10:34:21 29 not matters that have been covered, they should be given  
10:34:24 30 the opportunity to do so. They should be given the  
10:34:26 31 opportunity to make submissions to assist this Commission  
10:34:30 32 to come to a conclusion as to the extent to which their  
10:34:34 33 cases may have been affected. It's not possible for this  
10:34:37 34 Commission, counsel assisting to, in effect, retry the  
10:34:42 35 trials - - -

10:34:43 36  
10:34:43 37 COMMISSIONER: No.

10:34:44 38  
10:34:45 39 MR WINNEKE: - - - that have been held. Some of these were  
10:34:48 40 extraordinarily long, contained voluminous materials. But  
10:34:51 41 what we seek is, where appropriate, submissions,  
10:34:54 42 well-founded submissions and cross-examination where it's  
10:34:58 43 appropriate to assist the Commission to come to a view as  
10:35:02 44 to the extent to which cases may have been affected. In  
10:35:06 45 our submission, it's fundamental that potentially affected  
10:35:09 46 parties should be able to participate in hearings.  
10:35:10 47

10:35:11 1 COMMISSIONER: Yes. The reason I ask that, and I would  
10:35:13 2 have thought what you say was fairly uncontroversial, but  
10:35:16 3 the reason I ask that is because I mention that solicitors  
10:35:23 4 assisting the Commission have received a letter from the  
10:35:26 5 State of Victoria stating that they wish to note that  
10:35:30 6 should the Commission have or receive applications from  
10:35:33 7 these persons for leave to cross-examine witnesses at the  
10:35:36 8 Commission, the State wish to be heard on that question.  
10:35:39 9 Such a proposition raises serious issues around the  
10:35:42 10 propriety of those who are currently appellants to matters  
10:35:46 11 in the Court of Appeal and/or considering such appeals or  
10:35:49 12 applications being granted, leave to cross-examine police  
10:35:51 13 or other persons re matters the subject of the appeals.  
10:35:55 14

10:35:55 15 MR WINNEKE: I understand that. I've had a brief  
10:35:58 16 discussion with Mr Hill about that this morning. There may  
10:36:00 17 well be issues about the extent to which persons, if they  
10:36:03 18 have matters before the Court of Appeal, can participate.  
10:36:08 19 That may well be something that they wish to ventilate,  
10:36:11 20 that is the State, or the people involved. But at face  
10:36:15 21 value - - -

10:36:15 22  
10:36:16 23 COMMISSIONER: Yes.

10:36:17 24  
10:36:17 25 MR WINNEKE: - - - this Commission has been established to  
10:36:21 26 look into the extent to which cases may have been affected.  
10:36:24 27 Now there may be issues in common between the appeals, in  
10:36:29 28 fact there probably are, and obviously part of our  
10:36:32 29 agreement is not to interfere with proceedings that are  
10:36:35 30 currently being carried out, and ultimately it may well  
10:36:38 31 depend on what submissions are made, but on face value it  
10:36:42 32 would seem that despite there being appeals there ought be  
10:36:47 33 the opportunity of these people to participate in these  
10:36:49 34 hearings.  
10:36:50 35

10:36:50 36 COMMISSIONER: Yes.

10:36:51 37  
10:36:51 38 MR WINNEKE: We'll wait to hear what submissions might be  
10:36:54 39 made.

10:36:54 40  
10:36:55 41 COMMISSIONER: That's right. I just flagged it then so  
10:36:57 42 that those who were seeking such leave were aware that,  
10:37:00 43 although you were supporting it, there might be submissions  
10:37:02 44 to the contrary.  
10:37:03 45

10:37:03 46 MR WINNEKE: Yes. I'm not too sure what those submissions  
10:37:05 47 are and I don't think there's a formulated view about it

10:37:09 1 yet.  
10:37:09 2  
10:37:09 3 COMMISSIONER: No, there's a request to make written  
10:37:12 4 submissions.  
10:37:13 5  
10:37:14 6 MR WINNEKE: The State's entitled to make those submissions  
10:37:16 7 if they wish to do so.  
8  
9  
10:37:19 10 COMMISSIONER: Of course, of course. But I flagged it at  
10:37:20 11 this point so that those who were seeking leave to appear  
10:37:23 12 were aware that although you were supportive of it in the  
10:37:27 13 limited way you've expressed, others may not be.  
10:37:30 14  
10:37:31 15 MR WINNEKE: Well, that may be the case, Commissioner.  
10:37:33 16  
10:37:33 17 COMMISSIONER: Yes, thank you.  
10:37:34 18  
10:37:37 19 MR WINNEKE: The concern has been heightened on the part of  
10:37:40 20 those assisting this Commission not just by the report to  
10:37:45 21 the Court of Appeal, but also a letter sent by solicitors  
10:37:50 22 for Victoria Police, I think dated 24 March, where it was  
10:37:56 23 suggested - - -  
10:37:57 24  
10:37:57 25 COMMISSIONER: That is to the legal team assisting the  
10:37:59 26 Commission?  
10:38:01 27  
10:38:01 28 MR WINNEKE: Yes.  
10:38:01 29  
10:38:01 30 COMMISSIONER: Yes.  
10:38:02 31  
10:38:03 32 MR WINNEKE: 20 May, I'm sorry. I said March. 24 May.  
10:38:08 33 And a suggestion has been made as to the manner in which  
10:38:10 34 the hearings be conducted, that is with initial closed  
10:38:14 35 hearings with non-publication orders to deal with issues  
10:38:17 36 that address areas of risk to ensure the Commission can  
10:38:20 37 have access to all information that it needs. So that's  
10:38:23 38 the first suggestion.  
39  
10:38:24 40 Secondly, that there be public hearings concerning  
10:38:27 41 matters such as initial authorisation and knowledge of  
10:38:31 42 Ms Gobbo's registration, accountability, decision making,  
10:38:34 43 et cetera. It's accepted that those matters can be dealt  
10:38:37 44 with in public. But, Commissioner, it appears to me that  
10:38:41 45 nowhere in the letter was there a recognition that affected  
10:38:44 46 persons might need to participate or that the people in  
10:38:46 47 relation to whom Ms Gobbo provided information should be

10:38:52 1 able to be provided with appropriate disclosure, something  
10:38:55 2 that it seems Victoria Police has been avoiding now for  
10:38:57 3 many years.

10:38:58 4  
10:38:59 5 It was then suggested that Victoria Police had  
10:39:00 6 recently been requested to review the Loricated database,  
10:39:06 7 in particular the ICRs, that is informer contact reports  
10:39:14 8 and information reports, with a review to redacting for  
10:39:17 9 public interest immunity.

10 10  
10:39:18 11 Can I say this, Commissioner: issue is taken with  
10:39:20 12 that proposition because for some time now, since very  
10:39:24 13 early on in this process, Commission lawyers have been  
10:39:29 14 requesting Victoria Police to focus upon the PII redaction  
10:39:37 15 of the Loricated database and, in particular, information -  
10:39:41 16 informer contact reports and information reports, because  
10:39:44 17 as has been apparent to all concerned in this exercise,  
10:39:47 18 those reports are the fundamental, or those documents are  
10:39:51 19 the fundamental documents for the purpose of this inquiry.

10:39:54 20  
10:39:54 21 COMMISSIONER: And particularly in respect of those  
10:39:57 22 potentially affected people who are in custody.

10:39:59 23  
10:40:00 24 MR WINNEKE: Exactly.

10:40:00 25  
10:40:01 26 COMMISSIONER: That's been made clear from the early days  
10:40:02 27 of this Royal Commission.

10:40:04 28  
10:40:04 29 MR WINNEKE: Early days, Commissioner, it's been stated  
10:40:07 30 that the focus of the PII effort should be on Loricated  
10:40:12 31 database, but particularly ICRs and informer reports, IRs,  
10:40:17 32 because what we're looking at here is information provided  
10:40:21 33 by Gobbo to handlers and information provided by handlers  
10:40:25 34 to investigators. Fundamentally those are the important  
10:40:30 35 documents. In addition to that there are other materials  
10:40:34 36 which are relevant but fundamentally those are very  
10:40:37 37 significant documents. We've set out in our letter, that  
10:40:42 38 is lawyers for the Commission have set out a response to  
10:40:47 39 that letter, a letter dated 3 June 2019, and I can tender  
10:40:55 40 both of the letters and I propose to do so so the  
10:40:58 41 Commissioner has those. But essentially, Commissioner, it  
10:41:05 42 has been asserted and stated by the solicitors for the  
10:41:09 43 Royal Commission that it is absolutely important, and has  
10:41:19 44 been stated for some period of time, that those documents  
10:41:23 45 be PIIed and it was of some concern when Mr Paterson gave  
10:41:28 46 evidence in May to the effect that there had been no  
10:41:33 47 general commencement of PII redactions with respect to

10:41:38 1 ICRs. Now we're told that the IRs, information report  
10:41:42 2 redaction process, is ongoing, and it may well be that  
10:41:47 3 those information reports will be completed by way of -  
10:41:51 4 sorry, redactions for public interest immunity will be  
10:41:54 5 completed with respect to those documents relatively soon.  
10:41:58 6 But the ICRs, there's no clear indication of when that  
10:42:01 7 would be save that it's suggested that it might take a  
10:42:04 8 number of months, perhaps three months I think has been set  
10:42:07 9 out in the letter.

10:42:09 10  
10:42:10 11 All of that makes it concerning given that it's  
10:42:15 12 proposed that the hearings in relation to this period of  
10:42:17 13 time will commence around 22 July.

10:42:21 14  
10:42:21 15 COMMISSIONER: Yes, possibly even some of them in the  
10:42:23 16 earlier stretch, I thought there was a possibility that we  
10:42:29 17 might reach some of them in the earlier period in June.

10:42:32 18  
10:42:32 19 MR WINNEKE: What's proposed is that in hearings starting  
10:42:34 20 on 17 June is that there will be hearings around Ms Gobbo's  
10:42:39 21 interaction with Victoria Police members and Purana  
10:42:44 22 members.

10:42:44 23  
10:42:45 24 COMMISSIONER: Paul Dale firstly.

10:42:46 25  
10:42:46 26 MR WINNEKE: Paul Dale firstly but then we move into  
10:42:49 27 examination of interaction of Purana members such as  
10:42:53 28 Bateson, Swindells and so forth with Ms Gobbo in the period  
10:42:57 29 2003 through to 2004, which in effect lead into the  
10:43:01 30 registration in 2005. Now those matters are also the  
10:43:04 31 subject of other proceedings with respect to public  
10:43:14 32 interest immunity and suppression orders. But that's a  
10:43:16 33 separate issue.

10:43:16 34  
10:43:17 35 COMMISSIONER: So I thought at one stage we had anticipated  
10:43:20 36 we might reach some SDU witnesses. Is that not the case  
10:43:28 37 now?

10:43:29 38  
10:43:30 39 MR WINNEKE: Towards the end of that period it may well be  
10:43:32 40 that we would deal with the initial phase of registration.

10:43:34 41  
10:43:34 42 COMMISSIONER: Yes.

10:43:35 43  
10:43:35 44 MR WINNEKE: That is an area which it seems to be accepted  
10:43:38 45 could be dealt with in public.

10:43:39 46  
10:43:39 47 COMMISSIONER: Yes.

10:43:40 1  
10:43:40 2 MR WINNEKE: That is who knew about it and who authorised  
10:43:44 3 it and so forth, the circumstances in which she came to be  
10:43:48 4 registered.  
10:43:48 5  
10:43:49 6 COMMISSIONER: Yes.  
10:43:49 7  
10:43:49 8 MR WINNEKE: But the actual - the significant evidence in  
10:43:53 9 relation to the SDU period is likely to commence around 22  
10:43:57 10 July.  
10:43:57 11  
10:43:58 12 COMMISSIONER: That's right. The point is though that some  
10:44:02 13 weeks ago you gave Victoria Police notice of the witnesses  
10:44:05 14 that you would be calling in that period in June.  
10:44:07 15  
10:44:07 16 MR WINNEKE: Yes.  
10:44:08 17  
10:44:08 18 COMMISSIONER: And with the request that they provide  
10:44:13 19 necessary statements and all relevant documents PIIed two  
10:44:18 20 weeks before we start the next lot of hearings.  
10:44:21 21  
10:44:21 22 MR WINNEKE: Commissioner, that's a separate issue and  
10:44:22 23 that's another concern that we have. We have provided a  
10:44:27 24 list of names and we've sought statements and at this stage  
10:44:34 25 there's been very few statements provided.  
10:44:36 26  
10:44:37 27 COMMISSIONER: So anyway, later today we'll no doubt hear  
10:44:39 28 from Victoria Police whether they're going to meet that  
10:44:45 29 timeframe.  
10:44:46 30  
10:44:47 31 MR WINNEKE: No doubt we will, Commissioner.  
10:44:48 32  
10:44:49 33 COMMISSIONER: Also, later today we'll also deal with this  
10:44:53 34 draft protocol that we've been trying to establish for  
10:44:56 35 timely PIIed relevant documents prior to hearings in part  
10:45:02 36 so that they can be disclosed to affected parties who'd  
10:45:07 37 also want them for the relevant hearings.  
10:45:11 38  
10:45:11 39 MR WINNEKE: Yes.  
10:45:11 40  
10:45:12 41 COMMISSIONER: We'll also deal with that protocol at some  
10:45:15 42 point later.  
10:45:15 43  
10:45:16 44 MR WINNEKE: We can deal with that later, Commissioner.  
10:45:17 45  
10:45:18 46 COMMISSIONER: I'm just raising it because it does come  
10:45:20 47 into play with what's happening. Then if we move on to the



10:45:23 1 hearings on 22 July, which well and truly involve all the  
10:45:28 2 SDU handlers and so forth, it is our intention to deal with  
10:45:33 3 those witnesses then.  
10:45:34 4  
10:45:34 5 MR WINNEKE: Yes.  
10:45:35 6  
10:45:35 7 COMMISSIONER: I'm not sure whether you've yet given the  
10:45:38 8 notice to Victoria Police of the witnesses that you're  
10:45:42 9 proposing to call at that time but - - -  
10:45:46 10  
10:45:47 11 MR WINNEKE: No, that hasn't been done but it's quite - I  
10:45:50 12 don't think there's any issue - - -  
10:45:51 13  
10:45:51 14 COMMISSIONER: It's pretty self-evident who they'll be.  
10:45:55 15  
10:45:55 16 MR WINNEKE: - - - about the people that will be called,  
10:45:55 17 there's no issue about the handlers, Mr Chettle's clients.  
10:46:00 18 They're quite well aware that they're going to be the  
10:46:03 19 people, at least in the initial stages.  
10:46:05 20  
10:46:05 21 COMMISSIONER: Yes.  
10:46:05 22  
10:46:06 23 MR WINNEKE: Who are going to be examined during the course  
10:46:08 24 of those hearings.  
10:46:09 25  
10:46:10 26 COMMISSIONER: That's right. In any case, you'll certainly  
10:46:12 27 do that four weeks before those hearings.  
10:46:14 28  
10:46:14 29 MR WINNEKE: Indeed.  
10:46:14 30  
10:46:15 31 COMMISSIONER: With the hope that, according to the draft  
10:46:20 32 protocol, two weeks before that you would then have that  
10:46:24 33 material PIIed, the relevant documents and so forth and  
10:46:25 34 statements PIIed.  
10:46:26 35  
10:46:26 36 MR WINNEKE: Indeed, we've been provided by Mr Chettle,  
10:46:29 37 Mr Chettle's instructing solicitors, with a number of those  
10:46:33 38 statements already. I gather that process is continuing.  
10:46:36 39  
10:46:36 40 COMMISSIONER: Yes.  
10:46:36 41  
10:46:37 42 MR WINNEKE: It's obviously a lengthy process but he and  
10:46:39 43 his clients have been assiduous doing their work and I  
10:46:43 44 gather Mr Chettle has some product, further product of his  
10:46:47 45 endeavours to provide to the Commission today.  
10:46:49 46  
10:46:50 47 COMMISSIONER: Right.

10:46:50 1  
10:46:50 2 MR WINNEKE: Being charts and so forth which set out a  
10:46:53 3 significant amount of information.  
10:46:54 4  
10:46:54 5 COMMISSIONER: But it's not just the statements that are  
10:46:57 6 needed, it's also the documents that those statements are  
10:47:01 7 based on that you want PIIed, as I understand it, the ICRs  
10:47:05 8 and IRs and relevant diary notes.  
10:47:11 9  
10:47:11 10 MR WINNEKE: That's correct.  
10:47:12 11  
10:47:12 12 COMMISSIONER: And the reason you want them two weeks  
10:47:13 13 before that hearing is because not only do you want to  
10:47:14 14 prepare, but you also want to meet disclosure obligations  
10:47:20 15 and make sure that those who may have been affected have  
10:47:24 16 the opportunity to access those PIIed documents.  
10:47:26 17  
10:47:27 18 MR WINNEKE: Commissioner, that's correct. We have, that  
10:47:28 19 is the Commission has, the unredacted Loricated database.  
10:47:33 20 There's no concern about those documents being provided to  
10:47:35 21 the Commission. We've got them. The real concern is being  
10:47:38 22 able to provide the documents to the people whose cases  
10:47:41 23 have been affected. That's the real concern. The concern  
10:47:44 24 arises because it appears that there has been, I hesitate  
10:47:52 25 to say no effort, but insufficient effort to recognise that  
10:47:58 26 these people have a right to be here and to participate in  
10:48:00 27 this hearing. And in order for them to do so they need to  
10:48:04 28 be able to appear, that is be within the room, within the  
10:48:08 29 walls of this hearing and to hear the sort of information  
10:48:12 30 that was provided by Ms Gobbo to the handlers and  
10:48:15 31 information passed on.  
10:48:23 32  
10:48:23 33 COMMISSIONER: Absolutely.  
10:48:24 34  
10:48:24 35 MR WINNEKE: So they need to get the documents. That  
10:48:24 36 requires a real effort to redact the materials and get it  
10:48:27 37 to them in a form which we understand is safe, but that  
10:48:32 38 process should have commenced and it appears not to have  
10:48:35 39 commenced.  
10:48:35 40  
10:48:36 41 COMMISSIONER: It should have commenced in January when the  
10:48:38 42 Notice to Produce was served, if not earlier.  
10:48:41 43  
10:48:41 44 MR WINNEKE: Commissioner, it should have commenced earlier  
10:48:43 45 than that, a long time earlier than that.  
10:48:44 46  
10:48:45 47 COMMISSIONER: That's probably right, but even if you say

10:48:46 1 there was an appeal process and they were optimistic,  
10:48:49 2 they'd lost that by the beginning of December and the Royal  
10:48:53 3 Commission was called on 7 December last year and the  
10:48:57 4 Notice to Produce was served on 23 January.  
10:49:00 5  
10:49:01 6 MR WINNEKE: They're the issues of concern to this  
10:49:03 7 Commission. Yes, we'd like to have these hearings in  
10:49:08 8 public but equally importantly the people whose cases may  
10:49:11 9 have been affected need to have an effective opportunity to  
10:49:14 10 participate. That's our number one concern. To do so they  
10:49:17 11 need their materials, relevant materials.  
10:49:19 12  
10:49:19 13 COMMISSIONER: Yes. And it's particularly - time is  
10:49:23 14 particularly of the essence because these people are in  
10:49:26 15 custody.  
10:49:27 16  
10:49:28 17 MR WINNEKE: Some of them are.  
10:49:28 18  
10:49:29 19 COMMISSIONER: A lot of them are in custody.  
10:49:30 20  
10:49:31 21 MR WINNEKE: A lot of them are, yes.  
10:49:31 22  
10:49:31 23 COMMISSIONER: Yes. All right then.  
10:49:32 24  
10:49:33 25 MR WINNEKE: It may well be, Commissioner, that they be  
10:49:37 26 given an opportunity to make submissions about that, but  
10:49:41 27 that's what I've got to say at the moment.  
10:49:43 28  
10:49:43 29 COMMISSIONER: Yes. It's probably best I hear from them  
10:49:45 30 next before I hear from Victoria Police, would you agree,  
10:49:48 31 Mr Winneke?  
10:49:49 32  
10:49:49 33 MR WINNEKE: Yes, Commissioner.  
10:49:50 34  
10:49:50 35 COMMISSIONER: All right then. Mr Collinson, I don't know  
10:49:53 36 whether you wanted to say anything?  
10:49:55 37  
10:49:55 38 MR COLLINSON: Only this, Commissioner, that my  
10:49:59 39 instructions from my client are to be as cooperative as  
10:50:04 40 possible with this Commission subject to her medical state  
10:50:09 41 and condition. We generally support what counsel assisting  
10:50:13 42 has put to the Royal Commission. We've nothing further  
10:50:19 43 specifically to add at this point.  
10:50:21 44  
10:50:21 45 COMMISSIONER: I suspect you would also have an interest in  
10:50:24 46 seeing the documents in a form that you're allowed to see  
10:50:27 47 them as soon as possible before the hearings.

10:50:29 1  
10:50:29 2 MR COLLINSON: Arising from the same obligations of  
10:50:32 3 procedural fairness, which I think it must be common ground  
10:50:37 4 are open to Ms Gobbo and the persons affected.  
10:50:39 5  
10:50:39 6 COMMISSIONER: Yes, thank you Mr Collinson. Who will I  
10:50:45 7 hear from next?  
10:50:47 8  
10:50:48 9 MS PARKER: Commissioner, I've been invited to address the  
10:50:51 10 Commission in relation to Mr Orman.  
11  
12 COMMISSIONER: Yes, Ms Parker.  
13  
10:50:51 14 MS PARKER: Yes, Commissioner. The relevance of his matter  
10:50:53 15 is that he is the one person who has received some form of  
10:50:56 16 disclosure from Victoria Police after several requests.  
17  
10:50:59 18 If it would assist I have prepared a timeline of  
10:51:03 19 disclosure in a document which outlines the number of times  
10:51:06 20 they've been requested and when these documents were  
10:51:08 21 produced. I have a number of copies, I'm not sure I have  
10:51:12 22 enough copies for everyone, but if it would assist to cut  
10:51:14 23 the timeline down on my feet.  
10:51:17 24  
10:51:17 25 COMMISSIONER: All right then. I think actually,  
10:51:21 26 Mr Winneke, you were intending to tender some document,  
10:51:24 27 weren't you, some letters?  
10:51:26 28  
10:51:26 29 MR WINNEKE: Can I tender, Commissioner, the letter of  
10:51:28 30 Corrs to the Commission solicitors dated 24 May 2019 and  
10:51:34 31 the letter in response dated 3 June 2019.  
10:51:37 32  
10:51:38 33 #EXHIBIT RC1 - Letter of Corrs dated 24/05/19.  
10:51:43 34  
10:51:43 35 #EXHIBIT RC2 - Letter in response dated 03/06/19.  
10:51:47 36  
10:51:47 37 COMMISSIONER: Ms Parker, your timeline will be Exhibit 3.  
10:51:51 38  
10:51:52 39 MS PARKER: Thank you.  
10:51:52 40  
10:51:52 41 COMMISSIONER: If you could hand it up, that will shorten  
10:51:55 42 your submissions. That will be good.  
10:51:58 43  
10:51:59 44 #EXHIBIT RC3 - Timeline from Ms Parker.  
10:52:08 45  
10:52:09 46 COMMISSIONER: Did you want to speak to it or do you just  
10:52:12 47 want me to read it?

10:52:17 1  
10:52:17 2 MS PARKER: Commissioner, I don't need to read it, it  
10:52:20 3 speaks for itself.  
10:52:21 4  
10:52:21 5 COMMISSIONER: Thank you. So you say that in fact you  
10:53:46 6 don't have full disclosure yet?  
10:53:49 7  
10:53:50 8 MS PARKER: We don't.  
10:53:58 9  
10:53:58 10 COMMISSIONER: Yes. Anything else?  
10:54:00 11  
10:54:00 12 MS PARKER: Yes, Commissioner. I might just explain  
10:54:02 13 because my friend Ms Wallace also represents Mr Orman  
10:54:06 14 because his matter is large and complex. My firm is  
10:54:10 15 instructed with respect to his appeal matters and his  
10:54:13 16 petition for mercy but we in fact acted for him from the  
10:54:17 17 time of his conviction, through his appeals and it is to us  
10:54:20 18 that the disclosures have been made. And by virtue of my  
10:54:24 19 involvement in his matters I'm across the facts of those  
10:54:28 20 matters.  
21  
10:54:29 22 Ms Wallace will address the Commission with respect to  
10:54:33 23 Mr Orman's appearance and the significant difficulties that  
10:54:38 24 he has faced in participating in it, including the fact  
10:54:42 25 that he is no longer entitled by the Department of  
10:54:50 26 Corrections to watch any of the hearings, even those  
10:54:52 27 hearings that are being live streamed. That was afforded  
10:54:55 28 to him initially and has since been revoked.  
29  
10:54:58 30 Commissioner, having not had the benefit of being  
10:55:01 31 present during these hearings it is not apparent to  
10:55:03 32 Mr Orman or his representatives whether his matter has been  
10:55:07 33 discussed or raised at all, so I apologise in advance if  
10:55:11 34 I'm covering matters that have already been raised.  
35  
10:55:14 36 In very short compass he was charged with the murder  
10:55:15 37 of Victor Pierce on 22 June 2007 when he was 25 years old.  
10:55:21 38 Mr Pierce was murdered in Port Melbourne on 1 May 2002.  
10:55:25 39 Ms Gobbo was already engaged to represent Mr Orman in  
10:55:28 40 unrelated matters at the time of his arrest and was  
10:55:31 41 fundamentally involved in the preparation and conduct of  
10:55:33 42 his matter up until the beginning of 2009, being prior to  
10:55:36 43 his trial proceedings. However, she was initially briefed  
10:55:39 44 to appear for him at trial but his first trial was vacated  
10:55:47 45 because a co-accused was charged and had to proceed through  
46 the committal proceedings before his co-accused could join  
10:55:48 47 him at trial. She did however continue to have contact

10:55:53 1 with him throughout 2009 and 2010.  
2  
10:55:56 3 The prosecution of Mr Orman relied almost entirely on  
10:55:59 4 the evidence of a witness who will be referred to as  
10:56:02 5 witness, being the name that was provided to him at trial.  
10:56:05 6 His evidence was of a confession that Mr Orman was  
10:56:08 7 purported - - -  
10:56:09 8  
10:56:10 9 COMMISSIONER: Just a minute, is there a suppression order  
10:56:11 10 in respect of that person?  
10:56:20 11  
10:56:21 12 MS PARKER: I've been very cautious.  
10:56:25 13  
10:56:25 14 COMMISSIONER: I think that there may even be a suppression  
10:56:29 15 order in respect of referring to witness.  
10:56:31 16  
10:56:31 17 MS ARGIROPOULOS: Sorry, Commissioner, as I understand it  
10:56:33 18 the suppression order, from memory, I don't have it in  
10:56:36 19 front of me, refers to that description and any other  
10:56:40 20 information that might lead to the identity of that person.  
10:56:44 21 I'm not sure if counsel assisting have access to the order  
10:56:47 22 here.  
10:56:47 23  
10:56:47 24 COMMISSIONER: I have a whole huge folder of orders here  
10:56:51 25 somewhere. Anyway, if you could just say an informer.  
10:57:18 26  
10:57:19 27 MS PARKER: I'm happy to do that.  
10:57:20 28  
10:57:20 29 COMMISSIONER: Let's just progress with an informer because  
10:57:22 30 I think that might be a problem referring to that person  
10:57:25 31 even by the name witness. I think there are suppression  
10:57:28 32 orders made by a court that stop us doing that.  
10:57:32 33  
10:57:33 34 MS ARGIROPOULOS: Commissioner, I understand that we're  
10:57:34 35 being live streamed. I just wonder if that part of the  
10:57:39 36 submission can be redacted or - - -  
10:57:41 37  
10:57:42 38 COMMISSIONER: Yes, take out the mention of witness and  
10:57:44 39 just say an informer.  
10:57:46 40  
10:57:46 41 MS ARGIROPOULOS: If Ms Parker could perhaps just deal with  
10:57:48 42 it in a more general way.  
10:57:50 43  
10:57:50 44 COMMISSIONER: Yes. She's just going to say an informer.  
10:57:52 45 She was telling me that the case depended pretty much on  
10:57:56 46 the evidence of an informer.  
10:57:57 47

10:57:58 1 MS PARKER: Yes.  
10:57:58 2  
10:57:59 3 MS ARGIROPOULOS: Or a person perhaps would be preferable,  
10:58:01 4 but it's a matter for the Commissioner.  
10:58:04 5  
10:58:05 6 MR WINNEKE: To avoid any confusion, this person was a  
10:58:08 7 witness. A witness, not an informer. He was a witness.  
10:58:12 8  
10:58:12 9 COMMISSIONER: Right, a witness.  
10:58:13 10  
10:58:14 11 MR WINNEKE: Obviously we've got to be careful not to  
10:58:16 12 breach any suppression orders.  
10:58:17 13  
10:58:18 14 COMMISSIONER: Yes.  
10:58:18 15  
10:58:18 16 MR WINNEKE: And nothing can be said which might identify  
10:58:21 17 him, but it seems to be that there was a main witness in  
10:58:26 18 the case against Mr Orman.  
10:58:31 19  
10:58:31 20 COMMISSIONER: Yes, that's all we need to know, isn't it?  
10:58:34 21  
10:58:34 22 MS PARKER: Commissioner, the relevance of this witness is  
10:58:37 23 because of Ms Gobbo's relationship with him.  
10:58:41 24  
10:58:41 25 COMMISSIONER: Yes, here it is. It's the order of - I have  
10:58:49 26 found the order and it does refer to that description that  
10:58:53 27 you used.  
10:58:54 28  
10:58:54 29 MS PARKER: Thank you, Your Honour. I did make enquiries  
10:58:56 30 in relation to orders but that was not - - -  
10:58:59 31  
10:58:59 32 COMMISSIONER: No, it's a nightmare.  
10:59:01 33  
10:59:01 34 MS PARKER: Whilst I'm not proposing to go through  
10:59:04 35 Mr Orman's entire trial, I'm sure people will be relieved  
10:59:07 36 to hear, the relevance of this witness is very significant  
10:59:10 37 to the issues of disclosure because the entire case  
10:59:14 38 essentially rested on a confession that Mr Orman was  
10:59:19 39 purported to have made to this witness the day after Victor  
10:59:23 40 Pierce was murdered, to the effect that Mr Orman had been  
10:59:27 41 involved in his killing. What has been disclosed to us by  
10:59:32 42 Victoria Police thus far is that Ms Gobbo had a personal  
10:59:42 43 relationship with this witness for years prior to Mr Orman  
10:59:45 44 being charged. She represented him in serious matters.  
10:59:49 45  
10:59:49 46 MS ARGIROPOULOS: I'm sorry, Commissioner, I'm reluctant to  
10:59:53 47 interrupt my friend. I'm just concerned whether even this

10:59:55 1 information being articulated in a public hearing in itself  
11:00:01 2 may breach the suppression order if it's likely to lead to  
11:00:04 3 the identification of that person. I completely understand  
11:00:11 4 that Ms Parker is not as familiar with these issues as we  
11:00:16 5 are in the way that we've been managing them in this  
11:00:17 6 Commission, but if it's able to be dealt with in a way  
11:00:20 7 which could not lead to the identification of that person  
11:00:23 8 it could be done in a public hearing. If there is a  
11:00:26 9 necessity to descend to details that may lead to the  
11:00:29 10 identification, then perhaps that ought to be done in a  
11:00:32 11 closed hearing if it needs to occur.

11:00:39 12  
11:00:39 13 MS PARKER: I don't propose to identify this person in any  
11:00:42 14 other way except to generally refer to his relationship  
11:00:44 15 with Ms Gobbo.

11:00:46 16  
11:00:46 17 COMMISSIONER: I think the concern is if you give too much  
11:00:49 18 detail. So simply say that he had a relationship with  
11:00:52 19 Ms Gobbo.

11:00:52 20  
11:00:53 21 MS PARKER: Yes.

11:00:53 22  
11:00:53 23 COMMISSIONER: Professional and personal.

11:00:56 24  
11:00:57 25 MS PARKER: Yes. And this was disclosed as part of the  
11:01:00 26 materials provided by the police and that her contact with  
11:01:03 27 him commenced with respect to my client at a very early  
11:01:09 28 point in time and continued throughout his prosecution.  
29

11:01:16 30 What is also revealed by the materials that we've been  
11:01:18 31 provided with is that there was a knowledge on the part of  
11:01:22 32 the investigators that she had had this relationship and  
11:01:27 33 that she was in continued contact with him, and yet she  
11:01:29 34 continued to appear for Mr Orman, if not with the consent,  
11:01:33 35 but at least with the acquiescence of Victoria Police.

11:01:39 36  
11:01:42 37 MS ARGIROPOULOS: Commissioner, I'm terribly sorry to  
11:01:44 38 interrupt again. I just think that level of detail appears  
11:01:47 39 to be, in my submission, in breach of the order in that it  
11:01:52 40 may identify or tend to identify the person. Tend to  
11:01:55 41 identify.

11:02:00 42  
11:02:01 43 COMMISSIONER: Well it's very general and it's very - - -

11:02:05 44  
11:02:06 45 [REDACTED]  
11:02:09 46 [REDACTED]  
11:02:12 47 [REDACTED]



11:02:14 1  
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[REDACTED]  
I have requested it from the Victoria Police because my orders do not restrict me to speak about it in this general way, however whatever measures that can be taken to ensure that Mr Orman's interests are appropriately heard in this Commission I would be assisted if they could be taken if it means that at least his issues can be ventilated.

[REDACTED]

COMMISSIONER: Let's find the order first.

MS ARGIROPOULOS: I have the order on a tablet if I can - - -

COMMISSIONER: If you could, and just read it out. Which order is this? I have a huge folder of them here.

MS ARGIROPOULOS: This is an order made by the Honourable Justice Kaye on 17 February 2017.

COMMISSIONER: Yes.

MS ARGIROPOULOS: Does the Commissioner have a copy of that available or would it assist if I provide this either to - - -

COMMISSIONER: I'm sure which one it is. I'm sure it's in this bundle somewhere, so if you could show me which one it is. I don't want to mention any names you see.

MS ARGIROPOULOS: Yes.

COMMISSIONER: I'm not even sure of the - I don't know. It would help if someone could write down on a piece of paper - I dare say I'll be - tell me the name of the person that this is about because I'm not sure that a few people haven't been called by that witness number.

MR CHETTLE: Commissioner, for what it's worth Exhibit 81,

11:04:30 1 the confidential information, has that name and number on  
11:04:33 2 it.  
11:04:33 3  
11:04:34 4 COMMISSIONER: Thank you.  
11:04:34 5  
11:04:35 6 MS ARGIROPOULOS: It's number 33 in the list of the persons  
11:04:38 7 in Exhibit 81.  
11:04:39 8  
11:04:41 9 COMMISSIONER: Okay. No, that's all right, that's who I  
11:04:42 10 thought it probably was, yes.  
11:04:43 11  
11:04:44 12 MS ARGIROPOULOS: So the Commissioner will see from Exhibit  
11:04:47 13 81 that there is already a pseudonym that applied but  
11:04:50 14 there's obviously still issues remaining with respect to  
11:04:52 15 that pseudonym being used in light of the suppression order  
11:04:57 16 which I understand is just about to be shown to the  
11:05:02 17 Commissioner now.  
11:05:08 18  
11:05:11 19 COMMISSIONER: 'Any material which may identify or tend to  
11:05:13 20 identify a person prohibited from publication, including  
11:05:17 21 but not limited to name, location or image. Any material  
11:05:22 22 which may identify or tend to identify.' Thank you.  
11:05:44 23  
11:05:44 24 MS PARKER: Commissioner, to avoid further delay, because  
11:05:47 25 I'm sure that there are a number of other people who want  
11:05:50 26 the opportunity to be heard, if I can just in as general a  
11:05:52 27 sense as I can say this: the disclosure that has been made  
11:05:55 28 to my client is inadequate, incomplete, does not focus in  
11:06:00 29 on some of the most important aspects of his matter as  
11:06:03 30 relate to what I've previously mentioned, and are in fact  
11:06:06 31 for a time period far shorter than what his trial even ran  
11:06:09 32 for, so in fact what I've been provided with is information  
11:06:13 33 that ceases before he was even tried for this matter.  
11:06:18 34  
11:06:18 35 COMMISSIONER: So the time period isn't complete either?  
11:06:21 36  
11:06:21 37 MS PARKER: Yes, Commissioner.  
11:06:25 38  
11:06:28 39 COMMISSIONER: Right.  
11:06:28 40  
11:06:29 41 MS PARKER: As far as I have been able to I have attempted  
11:06:31 42 to assist the Victoria Police by providing a pretty  
11:06:34 43 comprehensive list of materials that we understand are in  
11:06:37 44 existence and that we say are subject to their ongoing duty  
11:06:40 45 of disclosure and that are relevant to Mr Orman, and since  
11:06:44 46 that list has been provided we've had no further  
11:06:47 47 disclosure.

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11:09:26 47

Mr Orman has served 12 years in custody. He is currently 37 years old and the first that he came to know about the potential of Ms Gobbo being a human source was through the media reporting in 2014 and 2015. In 2015 my office wrote to the then Director of Public Prosecutions John Champion and to IBAC to query whether or not we were impacted by what the media had been describing as the Lawyer X scandal and we did not receive a response. However, it is clear from the materials that we have been provided that not only did Ms Gobbo actively assist the police in their prosecution of Mr Orman by virtue of sharing privileged information, but also feeding back weaknesses in the prosecution case and areas where she may be revealed and where the case against Mr Orman would be significantly weakened. But she also actively assisted to impose inhumane measures upon him in custody to influence him to become a police witness against others. The recommendations included solitary confinement in dirty conditions and the removal of visits and telephone calls.

We know from what has been provided that these recommendations were forwarded to members of the Purana Task Force and were implemented for three years.

Mr Orman will be eligible for parole in two years' time but he is not guaranteed parole because, firstly, he will not admit his guilt for the murder, which is often a prerequisite to being considered eligible for parole, but also by virtue of having been placed in segregation at a very high classification from early on in his period of imprisonment, he has not yet reached a level of declassification where it is likely that he would be released on parole because he has not engaged in community release. His total effective sentence is 20 years.

In terms of how the disclosure may impact upon his ability to participate in the Royal Commission I will hand over to Ms Wallace, who is briefed by Robinson Gill. Between our two firms we are sharing the responsibility of representing Mr Orman to the best of our ability both in terms of the appeals, petition for mercy and this Commission and she can address the Commission in relation to the logistical issues that are being faced by Mr Orman.

COMMISSIONER: Thanks Ms Parker.

11:09:29 1 MS WALLACE: Commissioner, not to double up on what my  
11:09:29 2 friend has said, but it's my submission that there a number  
11:09:31 3 of issues raised also by counsel assisting in relation to  
11:09:34 4 the effective and meaningful participation of Mr Orman in  
11:09:37 5 this process. Firstly, in relation to his ability to view  
11:09:42 6 the live stream and the public hearings, he has  
11:09:44 7 communicated with Corrections and been refused any ability  
11:09:50 8 or facility to watch or view any of the live streaming of  
11:09:52 9 the public hearings. In relation to being provided the  
11:09:56 10 transcriptions, there has been a delay in being able to  
11:09:58 11 provide up-to-date transcripts given the delayed provision  
11:10:03 12 on the public website of those transcripts.

11:10:05 13  
11:10:05 14 In relation to preparing and instructing counsel or  
11:10:10 15 solicitors having the delay of when notice of witnesses are  
11:10:13 16 attending the public hearings or indeed attending the  
11:10:15 17 Commission at all, there has been insufficient time and  
11:10:18 18 notice provisions to Mr Orman to be able to instruct his  
11:10:22 19 counsel or solicitors about who would be appearing and what  
11:10:25 20 issues he might want to raise.

11:10:27 21  
11:10:27 22 In relation to what my friend just raised, Ms Parker  
11:10:30 23 raised about the conditions in custody, additionally we'd  
11:10:35 24 be seeking in disclosure about Ms Gobbo's communications to  
11:10:39 25 police - - -

11:10:40 26  
11:10:40 27 COMMISSIONER: Excuse me just a moment. Are we presently  
11:10:42 28 live streaming? You've stopped the live streaming. I  
11:10:48 29 don't think I did actually order to stop the live  
11:10:50 30 streaming. I think it was asked for but it wasn't ordered.  
11:10:54 31 I think there's a bit that you want removed, isn't there?

11:10:57 32  
11:10:57 33 MS ARGIROPOULOS: Yes, Commissioner.

11:10:58 34  
11:10:58 35 COMMISSIONER: The bit about the name, he was named - - -

11:11:05 36  
11:11:06 37 MS ARGIROPOULOS: Anything that may tend to identify that  
11:11:06 38 person.

11:11:07 39  
11:11:07 40 [REDACTED]  
11:11:09 41 [REDACTED]  
11:11:15 42 [REDACTED]  
11:11:20 43 [REDACTED]

11:11:23 44  
11:11:23 45 MS ARGIROPOULOS: There was also - unfortunately I haven't  
11:11:25 46 got access to the live transcript in court today but there  
11:11:28 47 was also detail concerning the relationship which in our

11:11:36 1 submission would tend to identify - - -  
11:11:39 2  
11:11:40 3 COMMISSIONER: A personal and professional relationship.  
11:11:42 4  
11:11:43 5 MS ARGIROPOULOS: The fact that it was a personal and  
11:11:45 6 professional relationship may tend to identify.  
11:11:50 7  
11:11:50 8 COMMISSIONER: What do you say, Mr Winneke?  
11:11:52 9  
11:11:52 10 MR WINNEKE: Commissioner, as I understood it there were  
11:11:58 11 two references of concern. The first is the reference to  
11:12:02 12 witness.  
11:12:02 13  
11:12:02 14 COMMISSIONER: You're not allowed to mention it. That has  
11:12:05 15 to be taken out.  
11:12:06 16  
11:12:06 17  
11:12:11 18  
11:12:13 19  
11:12:14 20  
11:12:14 21 COMMISSIONER: Yes.  
11:12:15 22  
11:12:16 23 MR WINNEKE: As to the matters that Ms Argiropoulos raises  
11:12:20 24 about the relationship - - -  
11:12:24 25  
11:12:24 26 COMMISSIONER: It's pretty general and it wasn't unique.  
11:12:27 27  
11:12:28 28 MR WINNEKE: It's pretty clear that Ms Gobbo had  
11:12:30 29 relationships with all sorts of police, all sorts of  
11:12:33 30 criminals.  
11:12:33 31  
11:12:33 32 COMMISSIONER: Yes.  
11:12:36 33  
11:12:36 34 MR WINNEKE: Both personal and professional.  
11:12:38 35  
11:12:38 36 COMMISSIONER: Thank you. That's all I'm ordering that be  
11:12:41 37 struck out from the transcript. So the streaming can  
11:12:44 38 continue with the 15 minute delay. Yes, sorry to interrupt  
11:12:47 39 but there was some confusion about that that needed to be  
11:12:51 40 sorted out.  
11:12:52 41  
11:12:52 42 MS WALLACE: Thank you, Commissioner. In relation to the  
11:12:54 43 addition to Ms Parker's submissions on disclosure, what  
11:12:58 44 also would be sought is handler notes in relation to  
11:13:01 45 communications between Ms Gobbo and Mr Orman, but  
11:13:04 46 additionally in relation to any notes or correspondence by  
11:13:07 47 Ms Gobbo to Victoria Police or Corrections regarding these

11:13:12 1 vulnerabilities as referred to by Ms Parker, being  
11:13:15 2 conditions that might be imposed in order to apply pressure  
11:13:18 3 to Mr Orman whilst in custody.  
4

11:13:25 5 Additionally, Your Honour, in relation to the  
11:13:27 6 participation, Mr Winneke, counsel assisting, has  
11:13:30 7 thoroughly covered what appear to be the problems  
11:13:32 8 encountered by a number of people, but particularly in my  
11:13:35 9 submission Mr Orman having requested in writing to  
11:13:40 10 Corrections any facility to view the live stream, in  
11:13:44 11 requesting the ability to prepare with counsel, in my  
11:13:47 12 submission that is insufficient for him to effectively  
11:13:50 13 participate in this process and given he has been  
11:13:52 14 identified as one of the people with some level of priority  
11:13:55 15 given his incarceration, in my submission it would be  
11:13:59 16 submitted that Mr Orman be able to attend any future  
11:14:02 17 hearings in person and be able to instruct counsel and  
11:14:07 18 solicitors with some advance notice of who witnesses will  
11:14:11 19 be that attend and their statements. Unless I can assist  
11:14:18 20 Your Honour further those are the submissions in relation  
11:14:20 21 to the second part of Mr Orman's case.  
22

11:14:22 23 COMMISSIONER: I'm not sure I have the power to give the  
11:14:25 24 orders you're seeking.  
25

11:14:28 26 MS WALLACE: No, Your Honour, I understand there can be  
11:14:30 27 notice to appear but at this point as to how that could be  
11:14:35 28 facilitated we will make further enquiries, but that would  
11:14:38 29 be our ultimate request at this point so that Mr Orman can  
11:14:42 30 participate with the solicitors at the hearing.  
31

11:14:49 32 Additionally, Your Honour, in relation to bolstering  
11:14:51 33 that submission, that would also be particularly in  
11:14:53 34 relation to any private or closed hearings given there has  
11:14:57 35 been this inability to view any of the public hearings by  
11:15:00 36 Mr Orman whilst in custody despite written requests and a  
11:15:03 37 number of suggestions by him as to how he could give  
11:15:05 38 undertakings to not repeat information, et cetera.  
39

11:15:09 40 COMMISSIONER: Can I just make clear what you're asking  
11:15:13 41 for.  
42

11:15:14 43 MS WALLACE: Yes, Your Honour.  
44

11:15:15 45 COMMISSIONER: You're asking for a direction that if he be  
11:15:20 46 given a notice to attend and then that can be, he can  
11:15:25 47 attend by video link, or perhaps in a remote room by video

11:15:32 1 link where he can give instructions?  
11:15:35 2  
11:15:35 3 MS WALLACE: Yes, Commissioner, that would be preferable.  
11:15:37 4  
11:15:37 5 COMMISSIONER: You say he should be able to do that in all  
11:15:40 6 hearings that affect him directly.  
11:15:42 7  
11:15:43 8 MS WALLACE: Yes, Your Honour.  
11:15:44 9  
11:15:45 10 COMMISSIONER: And his relationship with Ms Gobbo.  
11:15:46 11  
11:15:47 12 MS WALLACE: Yes, Commissioner, and any witnesses that I  
11:15:48 13 won't name or refer to, but if there is a relevant witness  
11:15:51 14 that gives evidence or provides a statement additionally in  
11:15:54 15 relation to the public or closed hearing of that witness.  
11:15:57 16  
11:15:57 17 COMMISSIONER: I see. You've also put on the record the  
11:16:00 18 further disclosure that you're seeking from Victoria  
11:16:04 19 Police.  
11:16:04 20  
11:16:04 21 MS WALLACE: Yes, Your Honour. Bolstering on to what  
11:16:06 22 Ms Parker said, there is additional disclosure in general  
11:16:09 23 but specifically in relation to the communications by  
11:16:11 24 Ms Gobbo to Corrections and Victoria Police about any  
11:16:14 25 pressure or conditions to be applied.  
11:16:16 26  
11:16:16 27 COMMISSIONER: All right. You'll also give them, Victoria  
11:16:20 28 Police, written notice of that further discovery?  
11:16:23 29  
11:16:24 30 MS WALLACE: Yes, Commissioner.  
11:16:24 31  
11:16:25 32 COMMISSIONER: You haven't done that yet?  
11:16:27 33  
11:16:27 34 MS WALLACE: Not yet, Commissioner. I understand Ms Parker  
11:16:29 35 has but Robinson Gill has not yet, but we'll endeavour to  
11:16:34 36 do that.  
11:16:34 37  
11:16:34 38 COMMISSIONER: So there are some additional matters to what  
11:16:36 39 Ms Parker has requested?  
11:16:38 40  
11:16:39 41 MS WALLACE: Yes, Commissioner.  
11:16:40 42  
11:16:40 43 COMMISSIONER: Thanks Ms Wallace, I understand now. All  
11:16:41 44 right, who am I hearing from next? Yes, Mr Maidment.  
11:16:45 45  
11:16:45 46 MR MAIDMENT: Perhaps me, Commissioner. Commissioner, the  
11:16:47 47 relationship between Mr Mokbel, Tony Mokbel and Ms Gobbo

11:16:53 1 began in early 2002. It is apparent from what has been  
11:16:57 2 revealed at this Commission so far that the relationship  
11:17:01 3 between Ms Gobbo and certain members of the Drug Squad  
11:17:06 4 began earlier than that by reference to Mr Mokbel. There  
11:17:12 5 is at least one diary note I think of Mr Strawhorn which  
11:17:16 6 refers to a conversation between him and Ms Gobbo in I  
11:17:20 7 think December 2000, during which they discussed Mr Mokbel.  
11:17:26 8 He was at that time, had already been charged with the  
11:17:31 9 offences that led to the prosecution of the ██████ matter  
11:17:38 10 which came to the Supreme Court and was tried in pre-trial  
11:17:41 11 during 2005 and in trial during 2006.

11:17:47 12  
11:17:47 13 The disclosure obligations as set out by our learned  
11:17:54 14 friend Mr Winneke and the chronology of events really I  
11:18:01 15 think needs to be added to by reference to the date upon  
11:18:07 16 which Ms Gobbo was registered as an informer in September  
11:18:15 17 2005, 16 September 2005. In our submission it is plain  
11:18:23 18 that the disclosure obligations of Victoria Police began on  
11:18:27 19 that date. The proceedings that led to the conviction on  
11:18:33 20 the cocaine matters, the ██████ matter, had already begun  
11:18:40 21 in the Supreme Court. There was a hearing concerning a  
11:18:46 22 subpoena for documents obtained through the Ceja Task Force  
11:18:53 23 involving the activities of members of the Drug Squad who  
11:18:59 24 had been responsible for investigating much of the material  
11:19:05 25 relating to the prosecution of the ██████ matter and those  
11:19:11 26 subpoenas, or that subpoena was directed at access to  
11:19:16 27 documents relevant to what Ceja Task Force had unearthed in  
11:19:21 28 the course of their investigations of the activities, the  
11:19:25 29 corrupt activities of the Drug Squad members.

11:19:29 30  
11:19:30 31 Your Honour, patently Victoria Police should have  
11:19:34 32 disclosed the relationship, the informer relationship at  
11:19:40 33 that stage. There can be no excuse for permitting those  
11:19:45 34 proceedings to take place, beginning on the 29th of  
11:19:50 35 September of 2005 before Justice Gillard, without  
11:19:55 36 disclosing the existence of that relationship. Ms Gobbo  
11:20:00 37 was junior counsel led by Mr Heliotis of Senior Counsel, of  
11:20:06 38 Queen's Counsel, and she continued to act for him  
11:20:11 39 throughout those proceedings during the trial which  
11:20:14 40 terminated upon Mr Mokbel's leaving the jurisdiction.

11:20:26 41  
11:20:26 42 COMMISSIONER: Yes.

11:20:28 43  
11:20:31 44 MR MAIDMENT: I think that was on or about 20 March 2006.  
11:20:37 45 Your Honour, those disclosure obligations have continued  
11:20:42 46 since that day. They existed, of course, during the plea  
11:20:49 47 hearings that took place in 2011, 2012, the appeals that



11:20:57 1 took place during that same period, both to the Supreme  
11:21:02 2 Court, the Court of Appeal in Victoria and to the High  
11:21:06 3 Court, and they have continued through the Comrie inquiry,  
11:21:12 4 through the Kellam inquiry and through the appellate  
11:21:19 5 proceedings that have taken place arising from Mr Mokbel's  
11:21:24 6 filing of an application for leave to appeal out of time  
11:21:28 7 before the Court of Appeal in Victoria in December 2017.

8  
11:21:31 9 We have received no disclosure from Victoria Police.  
11:21:37 10 Those instructing me sought disclosure through the Director  
11:21:45 11 of Public Prosecutions for Victoria in June and July  
11:21:49 12 respectively of 2015. Proceedings in VCAT directed towards  
11:21:59 13 Corrections and Victoria Police were commenced I think in  
11:22:02 14 about mid-2016 and were resisted by Victoria Police. Those  
11:22:10 15 are, I think, adjourned sine die and of course the  
11:22:16 16 proceedings have been before the Court of Appeal on the  
11:22:20 17 present application for leave to appeal out of time since  
11:22:24 18 December of 2017.

19  
11:22:29 20 During the intervening period there's been  
11:22:31 21 considerable correspondence between those instructing me  
11:22:34 22 and the Victorian Director of Public Prosecutions seeking  
11:22:38 23 disclosure on each occasion that's been - it's resulted in  
11:22:44 24 a response to the effect that they're not in a position to  
11:22:46 25 disclose either because of the ongoing proceedings before  
11:22:50 26 Justice Ginnane, the Court of Appeal and the High Court in  
11:22:57 27 the AB, CD, EF matter and, of course, as a result of the  
11:23:03 28 ongoing resistance by Victoria Police to the production of  
11:23:07 29 any of these original documents.

30  
11:23:10 31 What we have been able to glean so far is the material  
11:23:15 32 that was on the court file in the Supreme Court proceedings  
11:23:23 33 of AB, CD and EF. That was withheld by the court because  
11:23:28 34 of the ongoing resistance by Victoria Police until April of  
11:23:32 35 this year. We've had access to that and everything we've  
11:23:36 36 seen in that material has confirmed the facts that we  
11:23:41 37 believe to exist and which are set out in the detailed  
11:23:45 38 submission that we made to the Commission in March of this  
11:23:48 39 year which reflects essentially the case that we've sought  
11:23:53 40 to run in the Court of Appeal. Your Honour, of course  
11:23:59 41 those proceedings are the main focus of Mr Mokbel at the  
11:24:03 42 present time. The court, as you know, Commissioner, has  
11:24:10 43 sought to press Victoria Police for production of relevant  
11:24:16 44 materials for disclosure to Mr Mokbel of relevant  
11:24:26 45 materials. It is staggering, in our respectful submission,  
11:24:30 46 that Victoria Police has only just realised, or in very  
11:24:34 47 recent times, an obligation to disclose material outside

11:24:39 1 the period 2005 to 2009 because of course it bears upon the  
11:24:45 2 core period, which is that period 2005 to 2009. That  
11:24:49 3 material of course clearly goes back to 1995, 1999 and 2000  
11:24:58 4 and throughout the period that Mr Mokbel had a professional  
11:25:03 5 relationship with Ms Gobbo, that is between early 2002 and  
11:25:09 6 about December of 2011. So this has been on the table for  
11:25:15 7 a very long time. It is clear that Mr Comrie was not  
11:25:20 8 provided with all relevant material. It is clear that IBAC  
11:25:24 9 and Justice Kellam were not provided with all relevant  
11:25:28 10 material. It's clear that the Supreme Court at various  
11:25:33 11 times during that period has not been provided with all  
11:25:36 12 relevant material, nor has the High Court. So there's been  
11:25:40 13 a failure to disclose wholesale for a very long period of  
11:25:44 14 time. Perhaps not surprisingly, because the material, the  
11:25:48 15 limited material we have been able to see so far in our  
11:25:52 16 submission makes out at least a good arguable case that  
11:25:57 17 this is not just a case of impropriety, there is criminal  
11:26:00 18 conduct here and that involves aiding and abetting Gobbo in  
11:26:06 19 perverting the course of justice, aiding and abetting Gobbo  
11:26:09 20 in respect of all the fees she charged our client  
11:26:14 21 throughout the relevant period, aiding and abetting her  
11:26:18 22 obtaining those fees by deception, because none of those  
11:26:23 23 would have been paid and she must have known, and Victoria  
11:26:26 24 Police must have known, that none of those fees would have  
11:26:30 25 been paid if proper disclosure had been made.

11:26:33 26  
11:26:34 27 Now that, in our submission, needs to be recognised.  
11:26:37 28 This is not just a case of impropriety. This is a case of  
11:26:42 29 serious criminality. This conduct on behalf of Victoria  
11:26:53 30 Police would appear to be wanton and intended to conceal  
11:27:02 31 their activities. They cannot any longer hide behind the  
11:27:08 32 proposition that the public interest requires the identity  
11:27:13 33 of Ms Gobbo to be concealed. And that has been unmasked,  
11:27:21 34 as it were, by the proceedings in the Supreme Court and the  
11:27:25 35 High Court and we're now in a position where we can openly  
11:27:29 36 talk about the worst kept secret in Victoria since at least  
11:27:33 37 2015.

11:27:35 38  
11:27:36 39 Your Honour, in our submission every step needs to be  
11:27:40 40 taken, and the Court of Appeal has expressed their own  
11:27:44 41 concerns about the matter, to press Victoria Police to do  
11:27:48 42 the job that they should have done as from at least, in  
11:27:53 43 Mr Mokbel's case, 16 September 2005. They cannot be  
11:28:00 44 unaware of the matters that I've raised. They cannot be  
11:28:08 45 taken by surprise by the submission that I've just made.  
11:28:12 46 They must have been extremely concerned about the  
11:28:16 47 implications, at least from the time that Mr Comrie was

11:28:22 1 engaged to conduct his inquiry, and they must have been  
11:28:30 2 concerned to ensure that none of this could ever happen  
11:28:36 3 again, and that those who are in prison - in Mr Mokbel's  
11:28:42 4 case he's been in custody since I think June of 2007, so  
11:28:46 5 he's served 12 years essentially of his 30 year sentence  
11:28:53 6 with a non-parole period of 22 years - and in our  
11:28:57 7 submission the material we've seen so far gives him good  
11:29:02 8 ground for seeking to overturn those convictions.  
9

11:29:09 10 Now that might be an unpopular result so far as  
11:29:13 11 Victoria Police are concerned, and indeed for many others,  
11:29:17 12 but that is the fact and this is a situation that it is of  
11:29:21 13 their own making and it is their obligation to rectify this  
11:29:26 14 in an open and clear way, with as much of these proceedings  
11:29:32 15 being broadcast to the general public so that the spotlight  
11:29:38 16 can be placed firmly upon them and this can never be  
11:29:44 17 repeated. It is unprecedented in the common law world.  
11:29:49 18 Nothing like this has ever occurred to my knowledge and it  
11:29:54 19 is imperative that this Commission is effective in exposing  
11:29:59 20 the full extent of this conduct.

11:30:03 21  
11:30:03 22 Your Honour, so far as the ongoing participation of  
11:30:09 23 Mr Mokbel in this Commission is concerned, we are limited,  
11:30:15 24 because we're not funded. We have a team of people who  
11:30:19 25 have acted for Mr Mokbel pro bono for the last four years,  
11:30:26 26 in my case getting on for two, and we are happy to continue  
11:30:31 27 to do so because we believe that this is a matter that  
11:30:36 28 needs to be exposed and that the injustice that has been  
11:30:41 29 wreaked upon him and others needs to be rectified.

11:30:45 30  
11:30:45 31 Your Honour, we have, of course, our focus on the  
11:30:49 32 Court of Appeal proceedings primarily but we have from day  
11:30:54 33 one of this Royal Commission indicated to Mr Winneke and  
11:30:59 34 your team of counsel assisting our willingness to assist  
11:31:04 35 the Commission in every way we possibly can because it's in  
11:31:09 36 Mr Mokbel's interest that the truth be exposed. It's one  
11:31:14 37 thing having the documents. It's another, Commissioner, to  
11:31:18 38 have the benefit of the viva voce evidence of a number of  
11:31:22 39 witnesses whose evidence would not otherwise be disclosed,  
11:31:26 40 or likely to be disclosed by Victoria Police. Of course,  
11:31:30 41 there's an obligation upon Victoria Police to disclose all  
11:31:34 42 of that material, but it's nevertheless unlikely in light  
11:31:41 43 of the overall experience of obtaining disclosure that that  
11:31:48 44 would occur if this Royal Commission had not taken place  
11:31:51 45 and if this Royal Commission didn't have the capacity to  
11:31:56 46 examine witnesses, cross-examine witnesses viva voce.  
11:32:01 47

11:32:01 1 Our capacity to join in the proceedings is limited by  
11:32:06 2 the absence of the documentary evidence that would forearm  
11:32:12 3 us to cross-examine effectively. We can't participate  
11:32:20 4 usefully, in our view, without the full disclosure. The  
11:32:26 5 timetable of the disclosure gives us some hope that we may  
11:32:32 6 get the 2005 to 2009 documents on or about 28 June. There  
11:32:38 7 is no time frame or estimate as to when we might get other  
11:32:44 8 relevant material outside that time period which are  
11:32:47 9 clearly relevant.

11:32:48 10  
11:32:49 11 COMMISSIONER: At least that would mean in terms of this  
11:32:51 12 Commission, which is ultimately all that I have any control  
11:32:55 13 over, is that you would have it in time to prepare for the  
11:32:59 14 calling of the handlers and SDU team in July.

11:33:05 15  
11:33:05 16 MR MAIDMENT: Yes. Well, that's right.

11:33:07 17  
11:33:08 18 COMMISSIONER: 22 July.

11:33:09 19  
11:33:09 20 MR MAIDMENT: Of course we don't know the full scale of the  
11:33:11 21 material but we anticipate it will take some time to go  
11:33:14 22 through that material.

11:33:15 23  
11:33:15 24 COMMISSIONER: Sure.

11:33:16 25  
11:33:16 26 MR MAIDMENT: We would imagine that we'll be in some  
11:33:19 27 position to assist the Commission, to the extent that we  
11:33:24 28 are permitted, from about mid to late July and we would  
11:33:29 29 hope to be in a position to do that. Obviously we'll have  
11:33:34 30 to do a tag team essentially of representatives and our  
11:33:40 31 capacity to be here on a daily basis is going to be  
11:33:44 32 obviously very limited, but we offer our assistance and we  
11:33:49 33 see the benefit for Mr Mokbel of being able to  
11:33:53 34 cross-examine witnesses based on the material about which  
11:33:58 35 we've been instructed and about instructions we would  
11:34:01 36 expect to receive from Mr Mokbel so that we may assist the  
11:34:07 37 Commission in training the spotlight where it belongs.

11:34:11 38  
11:34:12 39 COMMISSIONER: Would you also be seeking an order that - or  
11:34:16 40 would you also be seeking for him to be served with a  
11:34:19 41 notice to appear and to have access via video link to the  
11:34:24 42 Commission proceedings that are relevant to him so that can  
11:34:29 43 he give instructions?

11:34:32 44  
11:34:32 45 MR MAIDMENT: It would be of enormous benefit to us, and  
11:34:35 46 indeed to the Commission, if that were available.

11:34:38 1 COMMISSIONER: Yes, thank you.  
11:34:42 2  
11:34:44 3 MR MAIDMENT: We hear what is said on behalf of the State  
11:34:49 4 of Victoria about the - - -  
11:34:50 5  
11:34:51 6 COMMISSIONER: I think that's - I just raise that. That is  
11:34:55 7 something that will need to be dealt with.  
11:34:58 8  
11:34:59 9 MR MAIDMENT: If I can just say one word about that, and  
11:35:01 10 that is that at the moment we don't see any conflict  
11:35:04 11 between our position in the Court of Appeal and our  
11:35:07 12 position before this Commission. Indeed, a list in fact  
11:35:13 13 that are relevant to the proceedings is obviously part of  
11:35:19 14 the function of this Commission.  
11:35:20 15  
11:35:20 16 COMMISSIONER: Perhaps we won't deal with that now until  
11:35:24 17 we've actually got some submissions and an application from  
11:35:28 18 the State if they pursue that. I flagged it so that people  
11:35:32 19 were aware of that possibility.  
11:35:33 20  
11:35:34 21 MR MAIDMENT: Certainly we would like to look carefully at  
11:35:36 22 what they have to say before saying anything more about it.  
11:35:41 23  
11:35:41 24 COMMISSIONER: Yes. Thanks Mr Maidment, and thank you and  
11:35:43 25 your team for appearing pro bono. That's very professional  
11:35:49 26 on your part and the Commission appreciates it.  
11:35:58 27  
11:35:59 28 MR MAIDMENT: If the Commission please.  
11:35:59 29  
11:36:00 30 MR WAREHAM: I appear for Mr Barbaro in this matter.  
11:36:01 31  
11:36:02 32 COMMISSIONER: Mr Barbaro. Yes, Mr Wareham.  
11:36:03 33  
11:36:03 34 MR WAREHAM: I won't take Your Honour to chapter and verse  
11:36:09 35 through these proceedings but Mr Barbaro's involvement with  
11:36:12 36 Ms Gobbo really commences upon his arrest in what I could  
11:36:22 37 regard, refer to as the tomato tins case. She represents  
11:36:29 38 him I think from his initial arrest in August of 2008  
11:36:34 39 through proceedings in the Magistrates' Court, bail  
11:36:38 40 applications and the like, all the way up to the Supreme  
11:36:40 41 Court and then she falls away. But her involvement in that  
11:36:45 42 operation commences, as we understand it, in about 2007 in  
11:36:51 43 the investigative stage. I don't propose to go through all  
11:37:00 44 of the evidence, and there are a number of suppression  
11:37:04 45 orders and I don't want to breach them.  
11:37:05 46  
11:37:06 47 COMMISSIONER: No. Very good.

11:37:08 1  
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11:38:32 19  
11:38:36 20  
11:38:42 21  
11:38:46 22  
11:38:51 23  
11:38:57 24  
11:39:01 25  
11:39:07 26  
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11:40:00 37  
11:40:04 38  
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MR WAREHAM: My instructors have been provided with some disclosure from the Commonwealth Director and that was done, I couldn't give you an exact date, but some months ago and it was limited to material that others had in their possession who were subject to other Court of Appeal proceedings. Unlike Mr Karam we are not, we do not have an appeal on foot in the Court of Appeal. We're reliant on the work product of this Commission to decide whether we can found an appeal.

We have sought disclosure from Victoria Police and I believe that occurred in the earlier parts of January and my instructor can't give me a definitive answer but doesn't believe there's been a reply to that request. There was also a request for material from the Office of Public Prosecutions and the Director and also from the AFP, and the Commissioner of the AFP. We don't have any further disclosure other than what we were provided earlier on this year. It is limited and doesn't specifically relate to Mr Barbaro. There are other parts of this Commission that might impact on him but for the purposes of the submissions I'm making to Your Honour this morning, material relating to what directions were given by Victoria Police to Ms Gobbo in that period of Mr Barbaro's arrest has not been provided to us. We would be seeking full disclosure in the manner of transcripts and audio, as has been discussed this morning, notes, Intel reports, memos, day books of police members and those handling Ms Gobbo, and then correspondence that exists between Victoria Police, the Australian Federal Police, both the State and Commonwealth Director and what was then Customs, but I imagine now would be Home Affairs or Border Protection.

Our position is slightly different than some of the others, the other people who are seeking to be heard today. Mr Barbaro pleaded guilty and there are some issues that relate to that and really about what information was provided in order to either induce that or supplement the police case against him.

I've heard what the Commissioner said about seeking a notice to attend for Mr Maidment's client and Mr Orman. It would certainly be of assistance to us. There are a good number of issues that we will need to raise with Mr Barbaro about perhaps conversations that he had had with people.

11:40:43 1 COMMISSIONER: Just so this is known by the State of  
11:40:45 2 Victoria, certainly you'll be applying for leave to appear.  
11:40:50 3  
11:40:50 4 MR WAREHAM: Yes.  
11:40:50 5  
11:40:50 6 COMMISSIONER: In respect of witnesses who are relevant to  
11:40:52 7 your client?  
11:40:54 8  
11:40:54 9 MR WAREHAM: Yes, Your Honour.  
11:40:55 10  
11:40:55 11 COMMISSIONER: And to cross-examine insofar as anything  
11:40:59 12 wasn't covered by the counsel assisting?  
11:41:03 13  
11:41:03 14 MR WAREHAM: Yes, that's correct. We had provided to the  
11:41:05 15 Commission by the date earlier on in the year an  
11:41:10 16 application for leave to appear.  
11:41:12 17  
11:41:12 18 COMMISSIONER: Yes.  
11:41:13 19  
11:41:13 20 MR WAREHAM: Now I'm not sure if that has been forwarded to  
11:41:16 21 other relevant parties but if that's not on the file we can  
11:41:19 22 certainly re-file that. I would also propose given, and I  
11:41:23 23 don't want to go through the material now because I don't  
11:41:26 24 know if it's subject to suppression orders, I would also  
11:41:30 25 propose that my solicitor provide to the Commission's  
11:41:34 26 solicitors, to be distributed to whoever the Commission  
11:41:37 27 sees fit, what material has been provided to us so that we  
11:41:40 28 are quite clear about what we have in our possession. If  
11:41:43 29 that assists the Commission about what disclosure we have  
11:41:47 30 and what we would otherwise need, I can undertake that that  
11:41:50 31 will be done.  
11:41:55 32  
11:41:56 33 COMMISSIONER: All right then, thank you. Thanks  
11:41:57 34 Mr Wareham.  
11:41:59 35  
11:41:59 36 MR WAREHAM: Unless there's anything else.  
11:42:00 37  
11:42:01 38 COMMISSIONER: Thank you. Yes.  
11:42:03 39  
11:42:06 40 MS GARDE-WILSON: Thank you, Commissioner. Firstly, if I  
11:42:08 41 could address you in relation to the matter of Mr Karam.  
11:42:11 42 Submissions have already been made to the Commission in  
11:42:14 43 relation to him and as you've heard he has a matter before  
11:42:17 44 the Court of Appeal presently but that relates to a number  
11:42:20 45 of importations that occurred post what's been referred to  
11:42:24 46 as the tomato tins. The tomato tins case, where there are  
11:42:28 47 a number of co-accused here today, is not currently before

11:42:31 1 the court, however some of those facts are relevant to  
11:42:34 2 matters that are before the court. So insofar as the  
11:42:39 3 Commission is concerned we do seek leave to participate  
11:42:42 4 insofar as tomato tin case is concerned. At this point we  
11:42:46 5 don't seek to appear on behalf of, to cross-examine any  
11:42:49 6 witnesses, but we do seek disclosure in relation to any  
11:42:52 7 matter that comes before the Commission that is relevant to  
11:42:55 8 that. I've previously made those written requests to the  
11:42:59 9 Commission.

10  
11:42:59 11 As far as disclosure is concerned, I can indicate that  
11:43:02 12 in 2016 we issued a summons to Victoria Police and  
11:43:05 13 Australian Federal Police in relation to production. That  
11:43:09 14 was effectively put on hold until the High Court  
11:43:11 15 proceedings were concluded and that is now back on foot and  
11:43:15 16 we are told that we will get full production by 29 June.  
11:43:20 17 We have received some documents to date and we understand  
11:43:23 18 that the summary of extracts of the Loricated database is  
11:43:29 19 to be provided to us today. There was a version provided  
11:43:31 20 to the court yesterday that had to have some amendments  
11:43:34 21 made but I understand if not today, it will be very  
11:43:37 22 shortly. So we are soon to be at hand with most disclosure  
11:43:41 23 we anticipate in relation to Mr Karam's matters.

24  
11:43:47 25 More of concern, Your Honour, is a matter of David  
11:43:51 26 Ilic. Mr Ilic was convicted in 2013. He's currently  
11:43:55 27 serving a term of imprisonment.

11:43:57 28  
11:43:57 29 COMMISSIONER: You're appearing for him also today, are  
11:43:59 30 you?

11:44:00 31  
11:44:01 32 MS GARDE-WILSON: I sought leave earlier in relation to  
11:44:03 33 Mr Ilic. It does not relate to the 2005 to 2009 period of  
11:44:07 34 time, noting it was a 2012 set of charges that resulted in  
11:44:11 35 a conviction in 2013. He's currently served approximately  
11:44:15 36 six years of that sentence and has another two years to go.  
11:44:18 37 Disclosure has been sought and we're yet to receive any  
11:44:21 38 correspondence whatsoever in relation to that. Mr Ilic was  
11:44:26 39 one of the people that Ms Gobbo identified in the Ginnane  
11:44:30 40 proceedings as one of her top ten achievements on behalf of  
11:44:34 41 Victoria Police.

11:44:42 42  
11:44:42 43 COMMISSIONER: Anyway, in terms of the Commission I guess  
11:44:45 44 that's perhaps not as urgent because it's not going to  
11:44:48 45 involve the cross-examination of the handlers in the 22  
11:44:53 46 July hearings.

11:44:55 47



11:44:56 1 MS GARDE-WILSON: Correct, but urgent as he is one of the  
11:44:58 2 people who is in custody and has a very little period of  
11:45:01 3 time - - -  
11:45:01 4  
11:45:01 5 COMMISSIONER: Sure. It's when the relevant witnesses will  
11:45:03 6 come up with him.  
11:45:05 7  
11:45:05 8 MS GARDE-WILSON: Certainly.  
11:45:06 9  
11:45:06 10 COMMISSIONER: What period - is it known when you say the  
11:45:10 11 relationship with Ms Gobbo was affected?  
11:45:13 12  
11:45:13 13 MS GARDE-WILSON: 2012.  
11:45:14 14  
11:45:14 15 COMMISSIONER: 2012. We didn't think it went any later  
11:45:17 16 than 2010.  
11:45:20 17  
11:45:20 18 MS GARDE-WILSON: We have those submissions n the  
11:45:21 19 submissions already made to the Commission.  
11:45:22 20  
11:45:23 21 COMMISSIONER: Okay, all right. We'll have to look into  
11:45:25 22 that.  
11:45:28 23  
11:45:28 24 MS GARDE-WILSON: As I said, the only information we have  
11:45:30 25 in relation to that is her own admissions in the Ginnane  
11:45:34 26 proceedings.  
11:45:34 27  
11:45:34 28 COMMISSIONER: All right then.  
11:45:35 29  
11:45:35 30 MS GARDE-WILSON: There are three cases which have already  
11:45:37 31 been dealt with as far as sentences are concerned which  
11:45:41 32 have also been put to the Commission and that's the matter  
11:45:43 33 of Wayne Finn, Joseph Paresi and Frank Ahec. All have  
11:45:59 34 already served terms of imprisonment. All had interactions  
11:46:02 35 with Ms Gobbo during that 2005, 2007 period as a lawyer.  
11:46:11 36  
11:46:11 37 COMMISSIONER: These are no longer in custody?  
11:46:14 38  
11:46:14 39 MS GARDE-WILSON: Already served their sentence, so no  
11:46:16 40 longer in custody.  
11:46:17 41  
11:46:17 42 COMMISSIONER: Yes.  
11:46:18 43  
11:46:19 44 MS GARDE-WILSON: And with the exception of the disclosure  
11:46:22 45 within those Supreme Court/High Court proceedings in  
11:46:24 46 relation to Frank Ahec, there has been no disclosure made  
11:46:28 47 by Victoria Police.

11:46:29 1  
11:46:30 2 COMMISSIONER: It's been requested, has it?  
11:46:31 3  
11:46:32 4 MS GARDE-WILSON: Yes. Letters were received from the  
11:46:36 5 Office of Public Prosecutions in March saying the matter's  
11:46:40 6 been referred to Victoria Police for disclosure and have  
11:46:43 7 received no correspondence since.  
11:46:47 8  
11:46:47 9 COMMISSIONER: Insofar as any of the witnesses before the  
11:46:54 10 Commission are giving evidence in relation to their  
11:46:56 11 matters, are you seeking leave to appear?  
11:47:00 12  
11:47:00 13 MS GARDE-WILSON: We seek leave to appear insofar as we get  
11:47:02 14 disclosure of any material that relates to those people.  
11:47:07 15 Once we have that material we should then be in a position  
11:47:10 16 to obtain instructions and provide submissions to the  
11:47:13 17 Commission to no doubt assist my learned friend in  
11:47:15 18 assisting this Commission.  
11:47:17 19  
11:47:17 20 COMMISSIONER: That's really if anything crops up that  
11:47:21 21 might affect them. You're not sure at this stage whether  
11:47:25 22 they have been affected but they may have been because she  
11:47:31 23 appeared for them, is that the story?  
24  
11:47:35 25 MS GARDE-WILSON: It is clear they have been affected.  
26  
27 COMMISSIONER: It is clear.  
28  
11:47:36 29 MS GARDE-WILSON: All three be have been affected.  
11:47:38 30  
11:47:38 31 COMMISSIONER: Yes.  
11:47:39 32  
11:47:39 33 MS GARDE-WILSON: We're unable to make appropriate  
11:47:41 34 submissions to the Commission without disclosure.  
11:47:46 35  
11:47:46 36 COMMISSIONER: I understand. But what I'm saying to you is  
11:47:48 37 you're seek leave to appear with respect of any witnesses  
11:47:51 38 who are relevant?  
11:47:52 39  
11:47:53 40 MS GARDE-WILSON: Once we get disclosure we know which  
11:47:56 41 witnesses are relevant.  
11:47:58 42  
11:47:59 43 COMMISSIONER: That's right. If material crops up to the  
11:48:01 44 Commission that they may be relevant, then you're seeking  
11:48:04 45 leave to appear with respect to them.  
11:48:05 46  
11:48:06 47 MS GARDE-WILSON: Yes. Those are the matters.

11:48:07 1  
11:48:07 2 COMMISSIONER: You think there is material there that will  
11:48:10 3 show that they were affected?  
11:48:14 4  
11:48:14 5 MS GARDE-WILSON: Yes. I can indicate generally without  
11:48:17 6 present, treading on any suppression orders, the matter of  
11:48:22 7 Wayne Finn, there were witnesses in that case which there  
11:48:26 8 would be suppressions on their names which were dealt with  
11:48:29 9 in those proceedings which were witnesses against Mr Finn.  
11:48:32 10  
11:48:32 11 COMMISSIONER: Right.  
11:48:34 12  
11:48:34 13 MS GARDE-WILSON: Likewise in relation to Mr Paresi and  
11:48:38 14 it's clear in relation to Mr Ahec.  
11:48:41 15  
11:48:41 16 COMMISSIONER: Right, thank you. Thanks Ms Garde-Wilson.  
11:48:46 17  
11:48:46 18 MS GARDE-WILSON: Thank you.  
11:48:49 19  
11:48:50 20 MR CHERNOK: Madam Commissioner, on behalf of Mr Zirilli,  
11:48:54 21 if I can cut straight to the point. He's in largely the  
11:48:55 22 same position as Mr Barbaro in the sense of an appalling  
11:49:00 23 lack of disclosure in relation to the role that Ms Gobbo  
11:49:06 24 took with him. He also pleaded guilty in relation to the  
11:49:08 25 tomato tins matter but in terms of the interest or the  
11:49:14 26 Terms of Reference of this Commission, as far as Mr Zirilli  
11:49:18 27 is concerned it is broader than just Ms Gobbo. I'm  
11:49:22 28 conscious of blundering into any territory that might be  
11:49:25 29 covered by suppression orders and certainly on behalf of  
11:49:29 30 Mr Zirilli it would be of great assistance if we could  
11:49:33 31 obtain copies of all of the relevant suppression orders to  
11:49:38 32 really appreciate what the position is. We too have sought  
11:49:42 33 disclosure. As I say, it hasn't been provided. What  
11:49:45 34 ultimately I'd be seeking, Madam Commissioner, is that some  
11:49:49 35 timetable be set for disclosure to be provided to  
11:49:53 36 Mr Zirilli. If ultimately, upon having received that  
11:49:56 37 disclosure, Mr Zirilli then is in a position to seek leave  
11:50:01 38 in relation to witnesses remains to be seen. I can't say  
11:50:05 39 at this stage, although it does appear likely that on  
11:50:08 40 behalf of Mr Zirilli leave would be sought to cross-examine  
11:50:12 41 some of the Source Development Unit handlers. But without  
11:50:16 42 disclosure I really can't advance that matter much further.  
11:50:20 43  
11:50:20 44 COMMISSIONER: I understand. Mr Zirilli is in custody?  
11:50:24 45  
11:50:25 46 MR CHERNOK: Correct, yes. He's serving a sentence that  
11:50:26 47 was imposed by Her Honour, or as she was then, Her Honour

11:50:29 1 Justice King, on 23 February 2012. He received a sentence  
11:50:34 2 of 26 years with a minimum of 18 years. As I say, during  
11:50:39 3 the course of that proceeding he was advised by Ms Gobbo  
11:50:43 4 and also by others, so the concern is somewhat broader than  
11:50:49 5 just insofar as it relates to Ms Gobbo's dealings with him.

11:50:54 6  
11:50:54 7 COMMISSIONER: Yes, thank you.

11:50:55 8  
11:50:56 9 MR CHERNOK: Those are the submissions. Thank you.

11:50:57 10  
11:50:58 11 COMMISSIONER: Thanks Mr Chernok.

11:51:01 12  
11:51:02 13 MS KIRWAN: Commissioner, I appear for Mr Francesco  
11:51:04 14 Madafferi and I don't propose to repeat what's come before.

11:51:10 15  
11:51:10 16 COMMISSIONER: Yes.

17  
18 MS KIRWAN: Mr Madafferi is in a similar position in some  
11:51:49 19 respects to Mr Barbaro and Mr Zirilli. Mr Madafferi has  
11:51:49 20 requested disclosure. None has been forthcoming from any  
11:51:49 21 agency. We received notification from Victoria Police  
11:51:49 22 close to midnight last night that they had located some  
11:51:49 23 documents on the Loricated database. We've been given no  
11:51:49 24 time frame about whether and when any documents will be  
11:51:49 25 actually provided. Commissioner, it's a matter of public  
11:51:49 26 record, as I understand it, that Mr Madafferi was,  
11:51:49 27 Mr Madafferi's solicitor on the record after he was charged  
11:51:53 28 in 2008 was Mr Joseph Acquaro, and Mr Acquaro acted for  
11:51:59 29 Mr Madafferi in proceedings until 2013 when Mr Madafferi  
11:52:04 30 retained new solicitors. As is also on the public record,  
11:52:12 31 Mr Acquaro was murdered some years ago and a person has  
11:52:17 32 been charged with that murder and I understand that matter  
11:52:20 33 is currently before the courts.

34  
11:52:24 35 In your opening statement, Commissioner, you refer to  
11:52:29 36 a letter that Victoria Police had sent to IBAC regarding  
11:52:35 37 other police informants who had disclosed matters to  
11:52:40 38 Victoria Police who may have obligations of confidentiality  
11:52:44 39 and one of those persons was disclosed as a lawyer now  
11:52:49 40 deceased, having previously provided information to  
11:52:53 41 Victoria Police and that he was an Australian lawyer. And  
11:52:56 42 subsequently the police have said that the deceased police  
11:53:01 43 informant referred to in the IBAC material was a practicing  
11:53:06 44 lawyer but they declined to provide any further information  
11:53:09 45 as this matter is the subject of an ongoing Homicide  
11:53:12 46 investigation. As we understand it, it's never been  
11:53:15 47 publicly confirmed whether Mr Acquaro was in fact the

11:53:19 1 police informant in question and our client met with  
11:53:25 2 Ms Gobbo in the company of Mr Acquaro on a number of  
11:53:28 3 occasions and we've written to the Commission about that.  
11:53:32 4 Now we have no idea if - it's never been confirmed whether  
11:53:37 5 Mr Acquaro was also a police informant. If he was a police  
11:53:41 6 informant we don't know the time frame in which he was  
11:53:44 7 providing information to Victoria Police. If it was the  
11:53:47 8 case that he was doing so in conjunction with Ms Gobbo  
11:53:51 9 while they were acting for and advising Mr Madafferri, that  
11:53:55 10 may be a matter which complicates the interrogation of the  
11:54:02 11 records relating to information Ms Gobbo might have  
11:54:05 12 provided to the police relating to Mr Madafferri. And we  
11:54:09 13 still don't know what the scope of that information is but  
11:54:13 14 we'd ask the Commission to be careful in how it proceeds in  
11:54:19 15 relation to information which could have been provided by  
11:54:22 16 more than one source. We're really in the dark as to what  
11:54:26 17 the position might be. So it's very difficult for us to  
11:54:31 18 make submissions about how that matter should be dealt  
11:54:35 19 with. But if there is an overlap, and if it is the case  
11:54:38 20 that Victoria Police received information from two lawyer  
11:54:43 21 informants relating to our client, then that might need to  
11:54:48 22 be dealt with together rather than dealt with later down  
11:54:51 23 the track to avoid any overlap, and potentially the same  
11:54:57 24 police officers were involved. So at the moment we're in  
11:55:00 25 the position where no one will confirm to us, let alone  
11:55:04 26 Victoria Police, whether Mr Acquaro was indeed one of the  
11:55:08 27 informants. It seems a fair inference on the basis of the  
11:55:13 28 material on the public record that he was and we ask if  
11:55:16 29 that was the case that be confirmed as soon as possible.  
11:55:19 30 We do not know whether Victoria Police considers it has an  
11:55:24 31 obligation to disclose material relating to Mr Acquaro, and  
11:55:29 32 obviously if he was an informant, that information that he  
11:55:34 33 provided would fall squarely within the matters that were  
11:55:37 34 outlined by the High Court in its judgment and he would  
11:55:41 35 fall into exactly the same category as Ms Gobbo and those  
11:55:44 36 matters ought be disclosed. So at this stage until we've  
11:55:48 37 seen documents it's very difficult to define whether our  
11:55:53 38 client would seek leave to cross-examine witnesses. He has  
11:55:56 39 applied for leave to appear previously and he maintains  
11:56:02 40 that application for leave to appear so that he's in the  
11:56:04 41 tent with any relevant information that's provided. He  
11:56:08 42 hasn't commenced any legal proceedings in relation to his  
11:56:12 43 conviction but he has already served quite a number of  
11:56:17 44 years of a ten year sentence and there are some other legal  
11:56:20 45 issues he faces as a result of his conviction which we have  
11:56:23 46 written to the Commission about but I don't propose to  
11:56:27 47 raise those today. If the Commissioner pleases.

11:56:29 1  
11:56:30 2 COMMISSIONER: Thanks Ms Kirwan. Now I think - is that all  
11:56:33 3 the - - -

11:56:35 4  
11:56:36 5 MR KING: My name is Mr King, I appear on behalf the  
11:56:38 6 children of the Hodsons. The submissions that we wish to  
11:56:41 7 address the Commission on today are somewhat different from  
11:56:46 8 those have come before me but bear a similar theme, if I  
11:56:50 9 can put it that way. And that is that obviously we have  
11:56:53 10 been affected in a way by the actions that are being heard  
11:56:56 11 by this Commission and we want to actively participate in  
11:57:01 12 the Commission and have participated in the Commission and  
11:57:06 13 have had leave to appear and cross-examined a witness  
11:57:08 14 Mr De Santo previously. The issue that has arisen for us  
11:57:11 15 though is a similar issue in that we haven't really been  
11:57:15 16 provided with documentation, statements or disclosure in a  
11:57:18 17 manner that really allows us to properly prepare, brief  
11:57:22 18 counsel and to also respond to some of the Commission's  
11:57:26 19 requests. So, for example, Mr Dale is set to give evidence  
11:57:30 20 on 17 June. The Commission has very appropriately and  
11:57:35 21 quite rightly written to us yesterday and said, "Can you  
11:57:38 22 please provide us with submissions and whether or not you  
11:57:40 23 wish to cross-examine Mr Dale", but we don't have a copy of  
11:57:43 24 Mr Dale's statement. We've previously been provided with  
11:57:47 25 an unredacted copy in the courtroom. We were unable to  
11:57:51 26 leave the courtroom with that. We can't give it to our  
11:57:54 27 counsel, we can't prepare submissions and we can't - - -

11:57:54 28  
11:57:54 29 COMMISSIONER: I think it's subject to being PII claimed by  
11:57:59 30 Victoria Police so that's why it hasn't been put on the  
11:58:03 31 website. I understood that's to be done two weeks before  
11:58:06 32 the hearing date. Anyway, we'll hear from Victoria Police  
11:58:10 33 about that.

11:58:13 34  
11:58:13 35 MR KING: Thank you, Commissioner, but that makes it almost  
11:58:14 36 impossible for us to respond to the Commission by 7 June,  
11:58:17 37 which is this Friday. As I say, we haven't had the  
11:58:20 38 statement, I haven't been able to show counsel the  
11:58:23 39 statement. But more to that the Commission has also listed  
11:58:26 40 a number of different witnesses that my clients may be  
11:58:28 41 interested in seeking leave from the Commission to  
11:58:31 42 cross-examine such as Mr Gregor, Mr Moloney, et cetera, but  
11:58:35 43 at this stage we haven't been provided with time frames of  
11:58:39 44 when those witnesses are being called, we haven't been  
11:58:41 45 provided with their complete statements, we haven't been  
11:58:44 46 provided with any of the documents upon which those  
11:58:46 47 statements are based and that makes it virtually impossible

11:58:49 1 - - -  
11:58:49 2  
11:58:49 3 COMMISSIONER: The witnesses you mentioned were Gregor and?  
4  
11:58:54 5 MR KING: Gregor, Moloney.  
6  
7 COMMISSIONER: Murray Gregor.  
8  
11:58:55 9 MR KING: Mr Daly, Mr Buick, Mr Davey and Mr O'Brien. And  
11:58:59 10 really the position that that puts us in is it is  
11:59:03 11 impossible for us to brief counsel, it's impossible for us  
11:59:06 12 to prepare adequately and it's impossible for us to make  
11:59:10 13 decisions about whether or not we wish to cross-examine.  
11:59:13 14 That's really important because not only do we want to be  
11:59:16 15 afforded procedural fairness in the ability to  
11:59:20 16 cross-examine witnesses but we also don't want to take up  
11:59:22 17 the Commission's time unnecessarily and there may be times  
11:59:26 18 where we sit back and say we don't want to cross-examine,  
11:59:29 19 we don't want to get involved, but at this stage it is just  
11:59:31 20 impossible for us to be able to make those decisions.  
11:59:32 21  
11:59:32 22 COMMISSIONER: You mentioned a date, 7 June.  
11:59:34 23  
11:59:35 24 MR KING: Yes. The Commission has written to us and asked  
11:59:37 25 us to respond in respect to Mr Dale and whether or not we  
11:59:41 26 intend to cross-examine him and to provide submissions by 7  
11:59:44 27 June. There is no way conceivable at this stage that we  
11:59:47 28 would be able to do that without Mr Dale's statement.  
11:59:49 29  
11:59:50 30 COMMISSIONER: Yes, that's fair enough.  
11:59:52 31  
11:59:53 32 MR KING: I just wanted to address the Commission on those  
11:59:55 33 issues and just to highlight the fact that it is at this  
11:59:58 34 stage extraordinarily difficult for us to participate.  
12:00:02 35  
12:00:02 36 COMMISSIONER: Have you provided a list of potential  
12:00:05 37 witnesses in whom you'd be interested in being present for  
12:00:10 38 their evidence?  
12:00:10 39  
12:00:11 40 MR KING: We have had discussions with the Commission and  
12:00:13 41 have put the instructors and counsel assisting on notice,  
12:00:16 42 particularly in regard to Mr Gregor in terms of wishing to  
12:00:21 43 be involved in that witness. We haven't gone into the  
12:00:25 44 other ones yet. It is a sort of the chicken or the egg  
12:00:28 45 situation, Commissioner. We don't know until we have their  
12:00:32 46 material as to whether we do or we don't want to be  
12:00:35 47 involved. But at this stage, as I say, it is an

12:00:38 1 impossibility, we can't retain counsel, we can't properly  
12:00:41 2 prepare for it.  
12:00:42 3  
12:00:42 4 COMMISSIONER: But if you could let the Commission know the  
12:00:44 5 witnesses that you think you may be wishing to have leave  
12:00:48 6 to appear in respect of that would be a good start.  
12:00:52 7  
12:00:52 8 MR KING: Yes, Commissioner. We have previously done that  
12:00:54 9 with respect to Mr Gregor but I'm happy to highlight the  
12:00:59 10 other ones if you like with the proviso though that it is  
12:01:03 11 very difficult for us to do that because we don't have the  
12:01:06 12 material.  
12:01:06 13  
12:01:06 14 COMMISSIONER: Yes, I understand that. The material,  
12:01:09 15 obviously Dale's statement, is there any other material  
12:01:12 16 you're wanting?  
12:01:14 17  
12:01:15 18 MR KING: Mr Gregor's statement. My understanding is the  
12:01:17 19 last time Mr Gregor appeared his statement was found to be  
12:01:21 20 inadequate and he's gone back to revise that further  
12:01:22 21 statement and we would obviously like a copy of that  
12:01:24 22 statement and any of the documentation, diary notes,  
12:01:26 23 whatever it might be that that was based upon, and  
12:01:27 24 similarly for the other witnesses as well, we would think  
12:01:31 25 it's in accordance with procedural fairness that we be  
12:01:34 26 given those documents, those statements and then we can  
12:01:37 27 consider our position as to whether or not we wish to  
12:01:40 28 intervene and take up the Commission's precious time in  
12:01:44 29 respect to cross-examining them or whether or not we simply  
12:01:47 30 wish to hold back and allow the Commission to do its job.  
12:01:50 31  
12:01:50 32 COMMISSIONER: The way that you say your client's case has  
12:01:53 33 been affected is?  
12:01:55 34  
12:01:55 35 MR KING: So our clients were the children of the Hodsons.  
12:01:59 36  
12:01:59 37 COMMISSIONER: Yes.  
12:02:00 38  
12:02:00 39 MR KING: Obviously the Hodsons were murdered.  
12:02:02 40  
12:02:03 41 COMMISSIONER: Yes.  
12:02:03 42  
12:02:04 43 MR KING: Ms Gobbo was - I'm very mindful that there are  
12:02:07 44 suppression orders in respect to some of this information  
12:02:10 45 as well, Commissioner, so I'm trying to put it in very  
12:02:14 46 general ways.  
47



1 COMMISSIONER: Yes.  
2  
12:02:14 3 MR KING: Ms Gobbo was involved implicitly in respect to  
12:02:20 4 some of those events, if I can put it that way, and  
12:02:24 5 obviously there are interactions between her and Victoria  
12:02:26 6 Police in respect to some of those events, and also in  
12:02:30 7 respect to the aftermath of those events as well in terms  
12:02:32 8 of the investigation that occurred, in terms of her  
12:02:34 9 participating as a witness. She was also my client's  
12:02:39 10 lawyer for a period of time throughout all of that as well.  
12:02:43 11 So the whole thing is intrinsically enmeshed - - -  
12:02:43 12  
12:02:43 13 COMMISSIONER: So the case that was affected you are saying  
12:02:47 14 is?  
12:02:47 15  
12:02:48 16 MR KING: The case that was affected was the investigation  
12:02:50 17 of the murder of my clients' parents, but it's a bit more  
12:02:56 18 multi-factorial than that, if I can put it that way,  
12:02:58 19 because at that time one of my clients was also being  
12:03:03 20 represented by her, and so it kind of all plays into one  
12:03:06 21 another if I can put it that way. I have to put it  
12:03:08 22 generally, Commissioner, because I don't want to breach a  
12:03:10 23 suppression order.  
12:03:11 24  
12:03:11 25 COMMISSIONER: I understand, thank you. Unless I can  
12:03:14 26 assist the Commission further?  
12:03:18 27  
12:03:19 28 COMMISSIONER: Yes, thank you.  
12:03:29 29  
12:03:35 30 MR PENA-REES: Yes, Commissioner, I seek leave to appear  
12:03:37 31 for Mr Cvetanovski.  
12:03:40 32  
12:03:40 33 COMMISSIONER: Your name is, please?  
12:03:43 34  
12:03:43 35 MR PENA-REES: It's Michael Pena-Rees. I can spell that,  
12:03:56 36 it's P-e-n-a-R-e-e-s.  
37  
38 COMMISSIONER: Yes.  
39  
12:03:57 40 MR PENA-REES: Commissioner, we only had short notice of  
12:03:59 41 the hearing today but it was imperative that we appear for  
12:04:05 42 Mr Cvetanovski in the circumstances. He seems to have  
12:04:10 43 extremely strong connections to the matter involving  
12:04:14 44 Ms Gobbo and I can highlight this, that he has applied for  
12:04:22 45 notice to appear and to cross-examine. He has also  
12:04:32 46 provided some information to the Commission at this stage  
12:04:36 47 in light of the limited disclosure that has occurred. I

12:04:45 1 can also say to the Commission that we strongly adopt the  
12:04:51 2 submission put forward by my learned colleague,  
12:04:58 3 Mr Maidment. So I won't readdress those, I think those  
12:05:01 4 words were, the strength in those words was sufficient.  
12:05:11 5 And the other aspect is also we are doing this on a pro  
12:05:17 6 bono basis. Mr Cvetanovski comes up for parole in August  
12:05:21 7 next year and he is currently situated in a country prison  
12:05:27 8 so there are difficulties engaging with him unless one  
12:05:32 9 physically attends at the prison to see him to obtain  
12:05:35 10 instructions. So there have been some difficulties - - -  
12:05:40 11

12:05:41 12 COMMISSIONER: Are there no video link facilities from that  
12:05:44 13 prison?  
12:05:45 14

12:05:45 15 MR PENA-REES: There are but they're limited in terms of  
12:05:47 16 time, Commissioner, so it does create some stumbling block  
12:05:52 17 to obtaining the full information that we require and if he  
12:05:58 18 is requested to appear or attend, obviously he has provided  
12:06:04 19 that permission. The other aspect is the leave to  
12:06:08 20 cross-examine certain witnesses. Those witnesses haven't  
12:06:14 21 been settled in terms of who they are as yet. It was only  
12:06:20 22 of recent times we received some further limited disclosure  
12:06:25 23 and we're still assessing the nature of that. I believe  
12:06:31 24 disclosure to some other relevant parties, it seems a bit  
12:06:35 25 haphazard, some people get certain parts of the disclosure,  
12:06:40 26 others get other parts. They may be interconnected but it  
12:06:44 27 is almost like joining the jigsaw puzzle to identify the  
12:06:52 28 overall picture. I'm aware the police have a staff through  
12:06:56 29 the Victorian Government Solicitor of 19 solicitors and  
12:07:00 30 other support staff. It's quite a tremendous staffing  
12:07:03 31 level. One would hope that that would be sufficient for  
12:07:05 32 them to apply themselves and provide the information that's  
12:07:09 33 been requested for an extensive period of time.  
12:07:14 34

12:07:14 35 COMMISSIONER: So you say you have some disclosure but it's  
12:07:17 36 not complete?  
12:07:18 37

12:07:18 38 MR PENA-REES: It's extremely limited. In fact if I can  
12:07:22 39 put it this way, Commissioner, it is in a summary form  
12:07:27 40 which just highlights a sentence or two and the actual  
12:07:33 41 disclosure, bearing in mind the public interest immunity  
12:07:36 42 discussions that are still to be held by the Victorian  
12:07:40 43 Government Solicitor and Victoria Police which is taking  
12:07:43 44 some time, it is tantalising but it is not enough. It  
12:07:50 45 takes you to a point where you know that there's been a  
12:07:55 46 connection between Ms Gobbo and Mr Cvetanovski of extreme  
12:08:00 47 significance but it then doesn't fulfil what it should be

12:08:03 1 doing, and that is giving information that would allow a  
12:08:07 2 proper analysis of what actually occurred.  
12:08:09 3  
12:08:09 4 COMMISSIONER: But have Victoria Police purported to give  
12:08:11 5 you full disclosure or are they conceding that there's more  
12:08:15 6 coming?  
12:08:16 7  
12:08:16 8 MR PENA-REES: There's more coming.  
9  
12:08:19 10 COMMISSIONER: There's more coming, yes. Do you know when  
12:08:22 11 they say it will be completed?  
12:08:24 12  
12:08:24 13 MR PENA-REES: We've had a number of dates over the last,  
12:08:27 14 say, three or four months. Some of those dates come out of  
12:08:31 15 undertakings to the Supreme Court, but generally it is a  
12:08:35 16 month to month exercise of reporting the status of the  
12:08:39 17 release of that material.  
12:08:43 18  
12:08:43 19 COMMISSIONER: All right, thank you. Now, I think there's  
12:08:47 20 still some more people to hear from. Yes.  
12:08:51 21  
12:08:52 22 MR MOLESWORTH: Commissioner, in respect to Mr Pasquale  
12:08:55 23 Sergi I can be very succinct in regard to the submissions  
12:09:00 24 which have come before us. Mr Sergi was a co-accused of  
12:09:04 25 Rob Karam as part of the tomato tin importations. He was  
12:09:08 26 represented by Ms Gobbo and by a solicitor that was also  
12:09:12 27 reasonably suspected to have been an informer.  
12:09:15 28  
12:09:15 29 COMMISSIONER: Sorry, could I have your name, please?  
12:09:18 30  
12:09:20 31 MR MOLESWORTH: Lachlan Molesworth, Commissioner.  
12:09:21 32  
12:09:22 33 COMMISSIONER: Yes, thank you. It's just that it's such a  
34 long appearance slip I can't find everything. Thanks very  
12:09:23 35 much for that.  
12:09:23 36  
12:09:24 37 MR MOLESWORTH: And, Commissioner, he was represented by  
12:09:28 38 Ms Gobbo and Mr Acquaro, his solicitor during 2007, 2008.  
12:09:36 39 We've received some information from the CDPP that it is  
12:09:40 40 not specifically related to Mr Sergi. He does not have an  
12:09:45 41 appeal on foot and we would be relying entirely on the work  
12:09:49 42 of this Commission. We have made a series of other  
12:09:52 43 requests of the CDPP which have not been forthcoming and  
12:09:55 44 we're in the process of seeking disclosure from Victoria  
12:09:59 45 Police at the moment, although that is only happening now.  
12:10:05 46 We'd be seeking leave to give evidence to the Commission on  
12:10:10 47 the mechanics of how informants were placed with suspects,

12:10:18 1 particularly Mr Sergi, as he was provided a solicitor and  
12:10:21 2 on his evidence was not given any choice as to a solicitor.  
12:10:26 3 That solicitor insisted upon representation by Ms Gobbo.  
12:10:31 4 For the reasons that we have heard, we would be seeking  
12:10:37 5 disclosure of what directions were made to Ms Gobbo and any  
12:10:44 6 other informants who may have had contact with Mr Sergi.  
12:10:50 7 We'd be seeking full disclosure of notes, transcripts,  
12:10:55 8 correspondence between the relevant agencies in relation to  
12:10:59 9 the tomato tin importation. And any information, relevant  
12:11:10 10 information reports and we would be seeking - and subject  
12:11:14 11 to the information which might come out of that  
12:11:17 12 information, we would be seeking leave to appear and leave  
12:11:20 13 to cross-examine any relevant witnesses.

12:11:22 14  
12:11:23 15 COMMISSIONER: And your client is in custody?

12:11:26 16  
12:11:26 17 MR MOLESWORTH: That's right, Commissioner.

12:11:27 18  
12:11:28 19 MR CHETTLE: Commissioner, could I inquire of my friend  
12:11:30 20 which Sergi he acts for? There are two on the list.

12:11:34 21  
12:11:35 22 MR MOLESWORTH: Mr Pasquale Sergi.

12:11:45 23  
12:11:45 24 COMMISSIONER: Yes, thank you. There's more.

12:11:50 25  
12:11:50 26 MR CONDELLO: Commissioner, if I may briefly - I appear for  
12:11:54 27 Mr Salvatore Agresta and he's largely in the same position  
12:11:59 28 as Mr Pasquale Sergi and also Mr Madafferri. I can indicate  
12:12:03 29 that Mr Agresta is currently serving a lengthy term of  
12:12:08 30 imprisonment. There are no appeals that are presently on  
12:12:11 31 foot. In relation to the issue of disclosure, Mr Agresta  
12:12:17 32 has received some disclosure from the Commonwealth Director  
12:12:22 33 of Public Prosecutions. That occurred in or around April  
12:12:24 34 of this year. There has also been requests made of  
12:12:30 35 Victoria Police for disclosure in relation to Mr Agresta  
12:12:35 36 and also in relation to the tomato tin importation which is  
12:12:40 37 an operation that he was involved in. There has been no  
12:12:45 38 disclosure from Victoria Police in a similar way to a  
12:12:51 39 number of the people who are here today, Your Honour. Last  
12:12:54 40 night at 11.30 we received some correspondence from  
12:12:58 41 Victoria Police in relation to the Loricated database and  
12:13:02 42 in that correspondence it's been confirmed that there were  
12:13:06 43 nil hits for Salvatore Agresta for the period 19 September  
12:13:12 44 2005 to 13 January 2009. However the database, as has  
12:13:19 45 already been indicated, doesn't cover the period of 95 to  
12:13:23 46 2005 or post-2009 and as we understand it Victoria Police  
12:13:29 47 is still reviewing the pre and post Loricated database

12:13:35 1 period for any information that may be relevant for  
12:13:38 2 Mr Agresta's purposes.  
12:13:40 3  
12:13:40 4 COMMISSIONER: But you're not necessarily expecting  
12:13:43 5 anything in that period, are you?  
12:13:45 6  
12:13:45 7 MR CONDELLO: No, we're not.  
12:13:46 8  
12:13:46 9 COMMISSIONER: There's ongoing obligations of disclosure of  
12:13:50 10 course.  
12:13:50 11  
12:13:51 12 MR CONDELLO: Certainly, yes. The information that has  
12:13:52 13 come from the Commonwealth Director of Public Prosecutions  
12:13:56 14 indicates that Ms Gobbo was providing information to the  
12:14:00 15 Victoria Police about the tomato tin operation.  
12:14:02 16  
12:14:03 17 COMMISSIONER: So really that's what you want disclosure  
12:14:05 18 about?  
12:14:06 19  
12:14:06 20 MR CONDELLO: Precisely.  
12:14:07 21  
12:14:07 22 COMMISSIONER: The tomato tin matters?  
12:14:10 23  
12:14:10 24 MR CONDELLO: Yes. And certainly once that disclosure has  
12:14:16 25 been provided there is some relevance to Mr Agresta, then  
12:14:21 26 certainly we'd seek leave to cross-examine any witnesses  
12:14:24 27 that are appearing before the Royal Commission. Mr Agresta  
12:14:30 28 is certainly relying upon the outcome of this Commission to  
12:14:34 29 determine whether or not an appeal can be lodged on his  
12:14:37 30 behalf moving forward.  
12:14:39 31  
12:14:39 32 COMMISSIONER: I understand.  
12:14:40 33  
12:14:41 34 MR CONDELLO: Unless there are any other matters,  
12:14:43 35 Commissioner?  
12:14:43 36  
12:14:43 37 COMMISSIONER: No, thank you. Yes. Would it be better if  
12:14:50 38 we hear from you after we've heard from the police I think?  
12:14:53 39  
12:14:54 40 MR OTTER: Yes, that might be right, Commissioner.  
12:14:57 41  
12:14:57 42 COMMISSIONER: Mr Chettle, did you want to say something  
12:14:59 43 first?  
12:15:00 44  
12:15:00 45 MR CHETTLE: I do. We're the people who this is about  
12:15:03 46 really.  
12:15:03 47

12:15:03 1 COMMISSIONER: Yes.  
12:15:04 2  
12:15:04 3 MR CHETTLE: As I understand the purpose of this mention,  
12:15:07 4 Commissioner, is to ascertain the form in which the  
12:15:10 5 evidence of my clients will be given and the right to other  
12:15:14 6 people to cross-examine them. That's a matter for you. As  
12:15:17 7 to the form - - -  
12:15:18 8  
12:15:18 9 COMMISSIONER: That's part of it.  
12:15:19 10  
12:15:19 11 MR CHETTLE: That's part of it. And to that extent I'd  
12:15:22 12 seek to perhaps inform you, Commissioner, of a number of  
12:15:25 13 matters. You might recall there's been a perpetual  
12:15:29 14 complaint from my clients they don't have enough material  
12:15:34 15 to in fact do their jobs and get material for you. Since  
12:15:39 16 Mr Paterson gave evidence on the previous occasion the  
12:15:41 17 relationship has blossomed and we have been able to do as  
12:15:44 18 much as we can, to the point that the Commission has  
12:15:47 19 already received statements from some of my clients and  
12:15:50 20 today and tomorrow you will receive the remainder of them.  
12:15:54 21 The statement from the witness known as Bourne is extensive  
12:16:03 22 and it seeks, it produces a document for you, Commissioner  
12:16:08 23 of some, when you get it, of some 245 pages which lists  
12:16:15 24 every contact that the unit had with Ms Gobbo. It lists  
12:16:20 25 the names of the people by their pseudonyms who were  
12:16:24 26 engaged in those meetings and it makes reference to, I  
12:16:29 27 think we've adopted the contact numbers that Loricade do  
12:16:32 28 and you'll see that there are 5040 contacts. The reason I  
12:16:37 29 raise that is it will give you some idea, Commissioner,  
12:16:40 30 about the amount of material that needs to be reviewed to  
12:16:43 31 perform the task we're doing. We've provided - - -  
12:16:46 32  
12:16:46 33 COMMISSIONER: So what is the pseudonym of this witness  
12:16:48 34 you're talking about, I didn't quite catch that?  
12:16:52 35  
12:16:53 36 MR CHETTLE: Bourne. He's one of the full-time serving  
12:16:55 37 police officers who has been working and assigned to  
12:16:59 38 effectively head office to work on this full-time and you  
12:17:02 39 remember I gave you some details of that in running. We've  
12:17:05 40 got three serving members and three ex-members as part of  
12:17:08 41 my clients. He's been - - -  
12:17:11 42  
12:17:13 43 COMMISSIONER: Baldwin?  
12:17:13 44  
12:17:15 45 MR CHETTLE: No, Bourne, B-o-u-r-n-e.  
12:17:18 46  
12:17:18 47 COMMISSIONER: Thank you. Is that what you would propose,

12:17:21 1 that he would be the initial one of the handlers to give  
12:17:25 2 evidence?  
12:17:26 3  
12:17:27 4 MR CHETTLE: I expect Jones will be probably be the first  
12:17:29 5 logical one but simply from chronology.  
12:17:32 6  
12:17:33 7 COMMISSIONER: But Detective Sergeant Bourne's evidence  
12:17:36 8 should then perhaps shorten the evidence to be given by the  
12:17:39 9 others.  
12:17:39 10  
12:17:40 11 MR CHETTLE: He has produced a table, he is going to  
12:17:43 12 produce two. One is the list of all contacts. Secondly,  
12:17:46 13 and perhaps more importantly for the exercise you're  
12:17:50 14 conducting today, there is annexure 2 to his statement  
12:17:52 15 which you'll receive which deals with the names that were  
12:17:55 16 requested details of in relation to the Loricated database  
12:18:00 17 and what contact was had with these individuals. An  
12:18:06 18 enormous amount of work goes into preparing a chart that  
12:18:09 19 will help you, Commissioner, in respect of which witness  
12:18:13 20 dealt with her, Gobbo, and whichever number she was given;  
12:18:18 21 which ICR reference relates to that particular witness with  
12:18:23 22 that particular person of interest; whether there was  
12:18:26 23 verbal dissemination of information and to whom; and  
12:18:30 24 finally, what information reports relate to that particular  
12:18:37 25 person. Now, you've been told by Mr Condello that there  
12:18:44 26 were zero hits for his client, and that's correct. He is  
12:18:47 27 not someone that she spoke about to us. They are the  
12:18:51 28 simple ones, there are others where she spoke - - -  
12:18:53 29  
12:18:53 30 COMMISSIONER: It doesn't mean the cases weren't affected  
12:18:56 31 by her conduct.  
12:18:57 32  
12:18:58 33 MR CHETTLE: No, absolutely. She may have even provided  
12:19:00 34 information in relation to one of the persons of interest  
12:19:02 35 which had a flow on effect to others.  
36  
37 COMMISSIONER: That's right.  
38  
12:19:04 39 MR CHETTLE: And that's quite clearly the case with the  
12:19:06 40 tomato cans obviously. So this wasn't, this is just to  
12:19:11 41 give you an indication that there's a mass of material  
12:19:14 42 that's going to be involved. Secondly, as you have been  
12:19:18 43 told there are we're told 56 face-to-face meetings with  
12:19:23 44 her. Those 56 were, well, I'm not going to repeat the  
12:19:28 45 mistake I made previously. There are transcripts available  
12:19:31 46 in relation to various meetings that were held with her.  
12:19:36 47 Six of those appear to be missing and I have obtained, we

12:19:41 1 have obtained 20. So we have not had 30 of the relevant  
12:19:46 2 transcripts to review and some of them go for hours. That  
12:19:49 3 hasn't stopped us doing statements, Commissioner. We've  
12:19:53 4 done the best we can to answer the questions you asked.

12:19:55 5  
12:19:56 6 COMMISSIONER: Yes.

12:19:56 7  
12:19:56 8 MR CHETTLE: In the absence of full material.

12:19:58 9  
12:19:58 10 COMMISSIONER: Yes.

12:19:58 11  
12:19:59 12 MR CHETTLE: Even more critical, and I think is the real  
12:20:02 13 problem the Commission and counsel assisting are going to  
12:20:05 14 have to grapple with, is the ICRs. There are three volumes  
12:20:10 15 of those, three full volumes of dense, heavy material. We  
12:20:16 16 have had access to them in their unredacted form at police  
12:20:21 17 headquarters, we haven't got copies to take away. They are  
12:20:26 18 significant because they represent the record of any  
12:20:30 19 telephone conversations that occurred between Ms Gobbo and  
12:20:37 20 any one of the handlers, and there are more hours of that  
12:20:42 21 than there are hours of tape recorded material. So there's  
12:20:45 22 an enormous amount of material involved in those particular  
12:20:49 23 sets of conversations. When my clients do ultimately give  
12:20:54 24 evidence before you, it seems likely that they will need  
12:20:58 25 those documents before them, and indeed we will need them  
12:21:04 26 before us and you will need them before you. And how this  
12:21:09 27 could be done just in a practical way in an open court is  
12:21:14 28 of some concern. That's a matter for you, Commissioner.  
12:21:16 29 We just simply bring to your attention our concerns. You  
12:21:20 30 know we prepared an affidavit in relation to the concerns  
12:21:23 31 that exist in relation to my clients and open public  
12:21:28 32 hearings. My position on behalf of my clients is that in  
12:21:31 33 order for you to do your task or job properly and  
12:21:35 34 expeditiously a closed hearing should be held initially,  
12:21:39 35 and then if there's a need to publicly air any matters that  
12:21:43 36 can be aired, a second public hearing be held with each of  
12:21:46 37 the witnesses when the affected parties, if I call them  
12:21:52 38 that, those who claim to be affected by the conduct of  
12:21:56 39 Ms Gobbo, want to cross-examine, they would be provided  
12:21:59 40 with whatever disclosure Victoria Police determine and they  
12:22:03 41 can then cross-examine my clients on that, subject to any  
12:22:06 42 obvious PII issues that might arise from that  
12:22:09 43 cross-examination in the open hearing. We don't seek to  
12:22:13 44 stop anyone participating in the Commission who has a valid  
12:22:18 45 interest.

12:22:18 46  
12:22:19 47 On the topic of when and how this occurs, the ongoing



12:22:23 1 flow of material comes, I mean I'm told that the  
12:22:26 2 transcripts will come, more transcripts to come. The  
12:22:31 3 information reports have been viewed and redacted by my  
12:22:35 4 clients in as far as they can be. They are being PIIed at  
12:22:39 5 the moment and we're told we'll probably get those next  
12:22:43 6 week and they'll be available. The information reports are  
12:22:45 7 critical because that's a list of what was actually  
12:22:48 8 disseminated in the main by the unit. There are also two  
12:22:51 9 documents the Commission has which are two volumes of the  
12:22:55 10 log. There's a log, the source log for each of her two  
12:23:00 11 numbers. That has been viewed and redacted by my clients  
12:23:05 12 and is currently being PIIed as well and I understand that  
12:23:11 13 will be available shortly. So we've got some but there's a  
12:23:14 14 lot that we haven't got and that is going to be a problem I  
12:23:20 15 think because we're being asked - we're trying but we're  
12:23:24 16 being asked to give evidence on incomplete material. We're  
12:23:27 17 doing our best to get up to it but that is the issue I  
12:23:31 18 simply raise for you now.

12:23:33 19  
12:23:33 20 On the issue of the timing of this, Mr Winneke made  
12:23:37 21 reference to the witnesses from 2003 to 2005 who you  
12:23:41 22 anticipate will become involved. Leaving Dale aside, I  
12:23:45 23 have no interest in him, but then you have the people from  
12:23:48 24 Purana, which one name notably not mentioned this morning  
12:23:53 25 was Jim O'Brien who I would imagine - - -

12:23:56 26  
12:23:56 27 COMMISSIONER: Someone did mention his name.

12:23:58 28  
12:23:59 29 MR CHETTLE: Not by Mr Winneke.

12:24:00 30  
12:24:00 31 COMMISSIONER: No. I understood there was some possibility  
12:24:03 32 he might be being called at the end of this June period.

12:24:08 33  
12:24:08 34 MR CHETTLE: He will take some time. He is a witness of  
12:24:09 35 some importance to the matters that you have to determine,  
12:24:11 36 and quite frankly one gets to Bateson, O'Brien, Rowe,  
12:24:17 37 Mansell, the people who were involved in the lead up to her  
12:24:21 38 involvement with my clients, I can see a fair bit of time  
12:24:26 39 involved in those witnesses. So I say that just for  
12:24:29 40 timing, I really can't see - I'm hopeful by the time my  
12:24:36 41 clients get to give evidence in July we will have a lot  
12:24:39 42 more material than we've got now and I urge the  
12:24:41 43 Commissioner to consider the proposal that I put as to the  
12:24:44 44 efficacious way of dealing with it.

12:24:45 45  
12:24:50 46 One of the matters that was raised today and perhaps  
12:24:54 47 in fairly emotive and strong language by Mr Maidment, the

12:25:01 1 suggestion that there was criminal conduct by my clients is  
12:25:03 2 utterly rejected. It's unfortunate Mr Maidment makes those  
3 submissions in the absence of - because he hasn't had  
12:25:10 4 proper discovery, but when he does get it, it seems to me  
12:25:13 5 he'll find that most of the material she said about  
12:25:16 6 Mr Mokbel never found its way into any public hearing. He  
12:25:21 7 was already effectively cooked by the time she came on  
12:25:25 8 board. The fact that she was an informer, that's a  
12:25:28 9 different issue. That fact alone may be relevant. But as  
12:25:30 10 to the material that she disclosed to my clients, firstly,  
12:25:33 11 it wasn't privileged. Secondly, it wasn't used in any  
12:25:37 12 criminal proceeding and to make - I just want to respond to  
12:25:41 13 the allegation that we behaved criminally. That's  
12:25:44 14 rejected, Commissioner, and you will - - -  
12:25:46 15

12:25:47 16 COMMISSIONER: This is just a directions hearing, we're not  
12:25:50 17 looking at the merits of these things.  
12:25:52 18

12:25:53 19 MR CHETTLE: Correct. This is just to help you where this  
12:25:53 20 is going. As you well know, Commissioner, our submissions  
12:25:56 21 have always been that this went off the rails with the  
12:26:01 22 Comrie report and I'm not going to rehash it now.  
12:26:05 23

12:26:06 24 COMMISSIONER: No, this is just a directions hearing.  
12:26:08 25

12:26:08 26 MR CHETTLE: People have taken the opportunity to  
12:26:10 27 grandstand, I thought I might as well, Commissioner.  
12:26:15 28

12:26:15 29 COMMISSIONER: You did a very good job at it too,  
12:26:17 30 Mr Chettle. It is probably appropriate now to hear from  
12:26:19 31 Victoria Police, unless anybody else thinks otherwise.  
12:26:22 32

12:26:23 33 MR HANNEBERY: Thanks Commissioner. Obviously there's been  
12:26:25 34 a lot of information that's been provided in the last two  
35 hours.  
36

37 COMMISSIONER: Yes.  
38

12:26:28 39 MR HANNEBERY: I would be assisted in order to assist the  
12:26:31 40 Commissioner if the matter was stood down for a short time  
12:26:33 41 to enable me to get some instructions as to the issues that  
12:26:35 42 came up.  
12:26:35 43

12:26:36 44 COMMISSIONER: Take our lunch break now. You would like us  
12:26:39 45 to take the lunch break now then?  
12:26:41 46

12:26:42 47 MR HANNEBERY: If that was possible I think that would be

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useful.

COMMISSIONER: It probably would be useful. All right then, we'll adjourn now until 1.30.

LUNCHEON ADJOURNMENT

13:26:27 1 UPON RESUMING AT 1.36 PM:

13:36:50 2  
13:36:50 3 COMMISSIONER: Mr Hannebery.

13:36:51 4  
13:36:51 5 MR HANNEBERY: Thank you, Commissioner. Thank you for the  
13:36:54 6 opportunity to have some time to get some instructions over  
13:36:56 7 the lunch hour. I can say firstly that having heard all  
13:37:02 8 the things that were said this morning, both by counsel  
13:37:06 9 assisting and by those representing affected parties, the  
13:37:11 10 Commission should be under no illusions that Victoria  
13:37:15 11 Police is aware of and accepts its obligation for ongoing  
13:37:20 12 disclosure. It also is aware of and accepts its  
13:37:27 13 obligations that it has to the safety of human sources and  
13:37:30 14 its obligation to assist the Royal Commission. They are  
13:37:35 15 all matters that Victoria Police understand. And in  
13:37:39 16 relation to the work of the Royal Commission, Victoria  
13:37:43 17 Police has been undertaking the task since January of this  
13:37:48 18 year of providing the Royal Commission with material as  
13:37:52 19 required. As the Commissioner would know, that is a task  
13:37:58 20 that requires both review as to relevance of matters and  
13:38:04 21 review of a PII issues. It involves a vast amount of  
13:38:09 22 material and clearly material that has some obvious and  
13:38:13 23 ongoing safety issues that need to be considered at all  
13:38:16 24 times and that that's a task to which considerable  
13:38:21 25 resources have been devoted.

26  
13:38:25 27 However, the nature of the task means that it's not  
13:38:28 28 simply a matter of committing more and more resources to  
13:38:32 29 it. What is in finite supply are people with sufficient  
13:38:39 30 expertise to undertake the PII task, knowing that you're  
13:38:45 31 dealing with material that is extremely sensitive where the  
13:38:49 32 consequences of mistakes can be extremely high. There's  
13:38:56 33 considerations about those with specific expertise, there  
13:39:00 34 has to be those with specific knowledge, that has to be  
13:39:04 35 those that in relation to some materials are properly  
13:39:08 36 authorised by legislation if you're dealing with witness  
13:39:10 37 protection issues, and there are issues surrounding  
13:39:13 38 knowledge in relation to IBAC, HSMU and other  
13:39:23 39 considerations that all go into that task.

13:39:26 40  
13:39:26 41 COMMISSIONER: So how many people are currently work on the  
13:39:29 42 task, Mr Hannebery?

13:39:31 43  
13:39:32 44 MR HANNEBERY: I'll get some instructions on that number.

13:39:37 45  
13:39:38 46 COMMISSIONER: Take it on notice.  
13:39:39 47

13:39:39 1 MR HANNEBERY: Yes, I'll take it on notice. There's other  
13:39:42 2 people here that can help with that. The priorities of  
13:39:45 3 doing that enormous task are guided by a number of things.  
13:39:49 4 Firstly, by the Court of Appeal. Clearly there are ongoing  
13:39:51 5 appeals, and also by the Commission itself, in that the  
13:39:59 6 Commission's asked for the preparation of a large number of  
13:40:03 7 witness statements, all of which require PII redactions of  
13:40:08 8 diaries, documents and other things related to those  
13:40:11 9 particular witnesses. So that's a long-winded way of  
13:40:14 10 saying that there's no dispute about what is required to be  
13:40:17 11 done. It's really about the practicalities of getting it  
13:40:22 12 done within time frames that are going to suit the  
13:40:27 13 priorities of the Commission.

13:40:30 14  
13:40:31 15 COMMISSIONER: The Commission does have time constraints on  
13:40:34 16 it.

13:40:35 17  
13:40:35 18 MR HANNEBERY: Yes.

13:40:36 19  
13:40:37 20 COMMISSIONER: Serious time constraints on it and that's  
13:40:43 21 why we have to keep pressing forward.

13:40:46 22  
13:40:46 23 MR HANNEBERY: Yes, and certainly Victoria Police  
13:40:47 24 understands that and this task is being undertaken with a  
13:40:51 25 large number of people working extremely hard at it to try  
13:40:54 26 to achieve the outcome that's sought. There is in no way,  
13:41:00 27 shape or form any suggestion that Victoria Police are not  
13:41:02 28 undertaking the task that's been set for them. It's simply  
13:41:06 29 a matter of the practicalities of doing that, having regard  
13:41:08 30 to the competing priorities of ensuring the safety of human  
13:41:12 31 sources and making proper claims for PII redactions where  
13:41:16 32 that's appropriate.

13:41:18 33  
13:41:18 34 In relation to how we go forward from here, I can say  
13:41:23 35 that the information reports will be completed in terms of  
13:41:29 36 their PII review by the end of next week and that they will  
13:41:37 37 then be in a form to provide to affected parties.

13:41:46 38  
13:41:46 39 Beyond that, obviously the Victoria Police are in  
13:41:56 40 constant contact with counsel assisting and with the  
13:42:00 41 Commission more generally to find out about what matters  
13:42:05 42 they would seek to have prioritised and those discussions  
13:42:09 43 can be ongoing. There's also active conversations that are  
13:42:13 44 sought out in relation to the way in which the July  
13:42:16 45 hearings might best proceed in order to make sure they go  
13:42:20 46 smoothly without the risk of the risk to safety that's  
13:42:28 47 obviously a concern to Victoria Police, but also done in a

13:42:31 1 way that achieves the outcome of getting, as my learned  
13:42:37 2 friend Mr Winneke said, all materials that are reasonably  
13:42:42 3 possible to have in the public domain in the public domain.

13:42:51 4  
13:42:51 5 It's not a dispute with Victoria Police about any  
13:42:57 6 particular subscription to any of those principles. It's  
13:43:00 7 really a matter of the practicalities of undertaking an  
13:43:05 8 enormous task with substantial complexity, substantial  
13:43:11 9 risks that have to be attended to and getting that done in  
13:43:15 10 a time frame that suits everyone involved and obviously  
13:43:22 11 being aware that there are affected people in custody and  
13:43:25 12 other priorities that are taken into account.

13:43:28 13  
13:43:28 14 That's what I can say will occur with some certainty,  
13:43:38 15 that will occur prior to the July hearings. It's a matter  
13:43:40 16 of - - -

13:43:41 17  
13:43:43 18 COMMISSIONER: That isn't terribly definite. The  
13:43:45 19 information reports you said by the end of next week.

13:43:49 20  
13:43:49 21 MR HANNEBERY: Yes.

13:43:49 22  
13:43:50 23 COMMISSIONER: In a form to be given to the potentially  
13:43:52 24 affected parties.

13:43:53 25  
13:43:54 26 MR HANNEBERY: Yes.

13:43:54 27  
13:43:54 28 COMMISSIONER: So that would mean that the review of the -  
13:43:57 29 the PII review would be completed by then?

13:43:59 30  
13:43:59 31 MR HANNEBERY: Yes.

13:43:59 32  
13:44:00 33 COMMISSIONER: By the end of next week.

13:44:02 34  
13:44:02 35 MR HANNEBERY: Yes.

13:44:02 36  
13:44:03 37 COMMISSIONER: That's a start. Then there are the ICRs  
13:44:06 38 which are also significant documents.

13:44:08 39  
13:44:08 40 MR HANNEBERY: Yes. Yes, which is a much bigger task and I  
13:44:10 41 can't commit on my feet now - beyond the fact that that  
13:44:14 42 task is being undertaken, I can't commit to a time frame  
13:44:18 43 for that to be completed.

13:44:19 44  
13:44:20 45 COMMISSIONER: The expectations of the Commission, and I  
13:44:23 46 understand you have finite resources, but the expectations  
13:44:27 47 of the Commission would be that that would be done two

13:44:33 1 weeks before the hearings commence concerning the SDU  
13:44:39 2 handlers on 22 July. That obviously is going to be  
13:44:44 3 difficult but that's what I would be expecting.  
13:44:51 4  
13:44:52 5 MR HANNEBERY: Obviously every allocation of resource  
13:44:56 6 carries with it an opportunity cost.  
13:45:00 7  
13:45:00 8 COMMISSIONER: Yes.  
13:45:01 9  
13:45:02 10 MR HANNEBERY: Obviously when there are a large number of  
13:45:04 11 witness statements also to get ready for July and materials  
13:45:07 12 attached to those witness statements, that does soak up  
13:45:10 13 resources that might otherwise be - - -  
13:45:13 14  
13:45:13 15 COMMISSIONER: A lot of those have been organised by  
13:45:15 16 Mr Chettle's team.  
13:45:17 17  
13:45:17 18 MR HANNEBERY: Yes. Perhaps I'm talking about the June  
13:45:19 19 ones, we've still got a number that are - - -  
13:45:24 20  
13:45:25 21 COMMISSIONER: Yes, in the meantime. So we're talking  
13:45:25 22 about 8 July, would be ordinarily when the Commission would  
13:45:28 23 expect that material.  
13:45:30 24  
13:45:30 25 MR HANNEBERY: Yes.  
13:45:30 26  
13:45:31 27 COMMISSIONER: I don't know whether you have instructions  
13:45:33 28 as to how many people are working on the preparation of it,  
13:45:36 29 of that material. I thought I'd heard in some material  
13:45:43 30 that there were 13 people who were working on it, or  
13:45:48 31 perhaps that was - if 13 people were working on it, not  
13:45:52 32 that 13 people were working on it.  
33  
13:46:19 34 MR HANNEBERY: Commissioner, in relation to the question  
13:46:21 35 about the resources involved, this is for the Commission  
13:46:24 36 has a whole, so this isn't specific to the PII reviews, but  
13:46:28 37 including the people who work at Landow, there are over 50  
13:46:32 38 police officers involved in this matter and over 20 lawyers  
13:46:36 39 involved in this matter.  
13:46:39 40  
13:46:39 41 COMMISSIONER: But I'm wanting to know specifically how  
13:46:43 42 many are involved in preparing the material for the  
13:46:47 43 hearings on 22 July.  
13:46:49 44  
13:46:50 45 MR HANNEBERY: Okay.  
13:46:51 46  
13:46:51 47 COMMISSIONER: And one thing that occurs to me is that as

13:46:54 1 the - as Mr Chettle's clients, the handlers, have completed  
13:47:01 2 their task of preparing statements and so forth, they would  
13:47:04 3 seem to be obvious potential employees to assist in this  
13:47:07 4 task. They understand very well the issues involved with  
13:47:16 5 human sources, they're trusted by Victoria Police, they're  
13:47:21 6 already familiar with the Loricated database. It seems to  
13:47:25 7 me that if you were to utilise their abilities that might  
13:47:32 8 assist in getting things ready for the hearing on 22 July.  
13:47:37 9

13:47:38 10 MR HANNEBERY: I note what the Commissioner says and no  
13:47:40 11 doubt other people in court heard that as well.  
13:47:42 12

13:47:42 13 COMMISSIONER: It would be worth exploring. I can't tell  
13:47:45 14 you whether that's possible but it's worth exploring.  
13:47:48 15

13:47:48 16 MR HANNEBERY: And I'm not in a position to make a comment  
13:47:51 17 one way or the other myself about that. What I can say  
13:47:53 18 just to - I don't mean to add complication to an already  
13:47:56 19 complicated situation, but in relation to the ICRs, there  
13:48:02 20 would not be effectively one generically redacted ICR that  
13:48:09 21 could be just served on anyone. It would depend upon the  
13:48:14 22 individual person involved, because it may well be that an  
13:48:17 23 individual has the right to see certain material that  
13:48:20 24 another individual may not.  
13:48:22 25

13:48:22 26 COMMISSIONER: I understand.  
13:48:23 27

13:48:23 28 MR HANNEBERY: It's not strictly speaking a matter of  
13:48:26 29 creating one.  
13:48:26 30

13:48:27 31 COMMISSIONER: Yes. It may have to be done a dozen times.  
13:48:29 32

13:48:30 33 MR HANNEBERY: It may have to be. That's one of the  
13:48:32 34 complicating features to it. Put it this way, if you made  
13:48:35 35 a generically redacted ICR, it may redact an awful lot of  
13:48:40 36 material that might otherwise be relevant to one person  
13:48:44 37 they'd be entitled to see which would not be ideal for  
13:48:47 38 them.  
13:48:47 39

13:48:47 40 COMMISSIONER: Yes.  
13:48:48 41

13:48:52 42 MR HANNEBERY: As this is a directions hearing, I'm happy to  
13:48:55 43 hear any directions that you wish me to deal with.  
13:49:02 44

13:49:02 45 COMMISSIONER: You've heard all those who contend that  
13:49:10 46 their cases have been affected and you've heard what they  
13:49:15 47 are wanting, discovery of their documents in time to



13:49:21 1 consider their position in relation to the handlers'  
13:49:25 2 evidence.  
13:49:26 3  
13:49:27 4 MR HANNEBERY: Yes.  
13:49:28 5  
13:49:29 6 COMMISSIONER: That's what's needed. It's a question of  
13:49:31 7 how it's done now.  
13:49:32 8  
13:49:33 9 MR HANNEBERY: There's no dispute about the legitimate right  
13:49:35 10 of people affected to have proper disclosure provided to  
13:49:41 11 them. It's not an issue of contending that that's not  
13:49:45 12 appropriate. The issue is how it's done and how quickly it  
13:49:48 13 can be done having regard for the other priorities.  
13:49:55 14  
13:49:55 15 COMMISSIONER: Yes, all right then. I'll see if anybody  
13:49:57 16 else wants to speak at this stage. Does anybody wish to  
13:50:02 17 speak on behalf of the State or the DPP or the CDPP?  
18  
13:50:12 19 Mr Hannebery, I'll tell you also there was a letter  
13:50:14 20 the Commission received today from the lawyers for the  
13:50:22 21 Australian Federal Police who refer to today's hearing,  
13:50:27 22 saying that in the course of reviewing various material for  
13:50:32 23 disclosure in the Karam and Mokbel appeals they've  
13:50:42 24 identified certain documents which they consider to be  
13:50:45 25 subject to public interest immunity. They didn't intend to  
13:50:52 26 appear at the directions hearing today but in any  
13:50:58 27 procedural orders relating to disclosure of documents which  
13:51:01 28 may be subject to PII and Commonwealth statutory secrecy  
13:51:06 29 provisions they request to be notified. They've requested  
13:51:10 30 that the Royal Commission notify them but it seems to me  
13:51:13 31 that VicPol would be the better person to notify them of  
13:51:15 32 that because you're more likely to know than we are.  
13:51:19 33  
13:51:19 34 MR HANNEBERY: Yes.  
13:51:19 35  
13:51:20 36 COMMISSIONER: I inform you of that.  
13:51:22 37  
13:51:22 38 MR HANNEBERY: Thank you. Whilst I'm still on my feet, can  
13:51:27 39 I formally tender the affidavit of Neil Paterson.  
13:51:31 40  
13:51:31 41 COMMISSIONER: Yes.  
13:51:33 42  
13:51:33 43 MR HANNEBERY: That should already be with the Commission.  
13:51:36 44 It's a confidential affidavit.  
13:51:37 45  
13:51:37 46 COMMISSIONER: Yes, that's true. I've read that and so  
13:51:40 47 have the legal team assisting and no one else has read

13:51:43 1 that, it's a confidential affidavit. So it will be placed  
13:51:47 2 in a sealed envelope and not be opened without an order of  
13:51:51 3 the Commission.  
13:51:53 4  
13:51:53 5 MR HANNEBERY: Yes.  
13:51:55 6  
13:51:56 7 #EXHIBIT RC4 - (Confidential) Affidavit of Neil Paterson.  
13:52:02 8  
13:52:02 9 MR HANNEBERY: I note Mr Chettle also raised some matters  
13:52:07 10 about the way in which the July hearings were to proceed.  
13:52:10 11 Beyond simply echoing some of the matters he said, I  
13:52:13 12 indicate that Victoria Police are obviously keen to sit  
13:52:17 13 down with counsel assisting and if possible working out a  
13:52:21 14 process by which those hearings can be done in a way that  
13:52:26 15 deals with all the competing priorities.  
13:52:28 16  
13:52:28 17 COMMISSIONER: Yes, well it's impossible for me to make any  
13:52:32 18 directions in respect of that at this stage whilst we're  
13:52:34 19 still waiting for so much material and statements, and so  
13:52:40 20 as we get closer to that period on 22 July, if it can't be  
13:52:45 21 agreeably arranged between the various counsel and parties,  
13:52:52 22 then it will be necessary to have a further directions  
13:52:54 23 hearing about it. But I'd emphasise that at this stage  
13:53:03 24 it's my hope and expectation that the relevant material  
13:53:16 25 will be provided to the Commission's legal team and to the  
13:53:25 26 various people who claim to be affected in time for them to  
13:53:30 27 meaningfully participate in the hearings on 22 July.  
13:53:36 28  
13:53:37 29 MR HANNEBERY: Yes, and I note the Commissioner's hope and  
13:53:41 30 expectation about that. I just want to be clear, I note  
13:53:44 31 that without making a commitment that it's possible.  
13:53:47 32  
13:53:48 33 COMMISSIONER: I understand. I understand, I've read the  
13:53:50 34 affidavit and I understand. But it remains my expectation  
13:53:56 35 and hope.  
13:53:57 36  
13:53:58 37 MR CHETTLE: Commissioner.  
13:53:58 38  
13:53:59 39 COMMISSIONER: Mr Chettle.  
13:53:59 40  
13:54:00 41 MR CHETTLE: I forgot to tender an affidavit, the affidavit  
13:54:03 42 of my instructing solicitor of 30 May 2019. It's  
13:54:07 43 confidential as well. It relates to obviously the nature  
13:54:13 44 of the hearings and I'd seek to tender that in the same way  
13:54:16 45 as Mr Paterson's affidavit was tendered.  
13:54:21 46  
13:54:21 47 COMMISSIONER: Yes.

13:54:21 1  
13:54:22 2 MR CHETTLE: I'm sure you've got it. I understand. Yes,  
13:54:24 3 I'm getting - - -  
13:54:25 4  
13:54:26 5 MR WINNEKE: Yes.  
13:54:26 6  
13:54:26 7 COMMISSIONER: I'm not sure that it's come up to the  
13:54:28 8 Commissioner.  
13:54:29 9  
13:54:30 10 MR CHETTLE: It echos, I think, a lot of the things  
13:54:34 11 Mr Paterson's probably telling you.  
13:54:38 12  
13:54:38 13 COMMISSIONER: Should it be a confidential affidavit?  
13:54:41 14  
13:54:41 15 MR CHETTLE: Absolutely.  
13:54:42 16  
13:54:43 17 #EXHIBIT RC5 - (Confidential) Affidavit.  
13:54:53 18  
13:54:54 19 COMMISSIONER: That affidavit will be marked confidential,  
13:54:54 20 placed in an envelope and not opened without my order.  
13:54:57 21  
13:54:58 22 MR CHETTLE: My instructions, Commissioner, because it is  
13:55:00 23 confidential, in relation to paragraph 7 of that affidavit,  
13:55:03 24 my instructor omitted to include reference to the man whose  
13:55:08 25 pseudonym is Klein on the list, Exhibit 81. My  
13:55:15 26 instructions are that he still does undercover work, it  
13:55:20 27 involves outlaw bikies and that should be communicated to  
13:55:24 28 you. I do it cryptically because it will make sense when  
13:55:27 29 you refer to paragraph 7. Other than that I have nothing  
13:55:33 30 further to say.  
13:55:34 31  
13:55:34 32 COMMISSIONER: I think I have seen this. This relates to  
13:55:36 33 your expectations and hopes for the way the hearing on  
13:55:42 34 the - - -  
13:55:43 35  
13:55:43 36 MR CHETTLE: Yes, which I spoke about this morning.  
13:55:45 37  
13:55:45 38 COMMISSIONER: Yes.  
13:55:46 39  
13:55:46 40 MR CHETTLE: There is an added factor, which again it's  
13:55:49 41 perhaps the wrong time, but I just simply say one of the  
13:55:52 42 factors I'll be urging the Commission to consider is  
13:55:59 43 insofar as any hearings are an open hearing my clients  
13:56:02 44 could appear from a remote location without their image  
13:56:06 45 being displayed, but for reasons the affidavit will  
13:56:08 46 address.  
13:56:09 47

13:56:09 1 COMMISSIONER: Yes, all right. We may need to deal with  
13:56:10 2 those in another directions hearing nearer the time.  
13:56:16 3  
13:56:17 4 Mr Otter, did you want to say something?  
13:56:20 5  
13:56:20 6 MR OTTER: Yes, Commissioner. I was to make some  
13:56:26 7 submissions in relation to how the evidence was to be taken  
13:56:34 8 by SDU but after hearing the Commissioner over the last  
13:56:37 9 little while those submissions may be more appropriate at a  
13:56:41 10 directions hearing at a later time.  
13:56:42 11  
13:56:43 12 COMMISSIONER: Yes.  
13:56:43 13  
13:56:44 14 MR OTTER: But we would seek to make submissions on that  
13:56:46 15 prior to the 22nd and the commencement of the SDU members  
13:56:50 16 giving evidence.  
17  
13:56:51 18 There was only one other issue I did want to raise  
13:56:56 19 briefly and that is that I'm instructed that there are  
13:56:59 20 still quite a few documents, for example, six transcripts  
13:57:04 21 which are yet to be made public. I'm also instructed that  
13:57:07 22 on previous occasions some of those documents were said to  
13:57:10 23 be returned and made public within 48 hours and they still  
13:57:14 24 haven't been. I just wish to draw that to the Commission's  
13:57:19 25 attention, that it would be our request that they were  
13:57:23 26 produced in a more timely fashion than they currently are  
13:57:28 27 being.  
13:57:29 28  
13:57:29 29 COMMISSIONER: Yes.  
13:57:29 30  
13:57:30 31 MR OTTER: I don't put it any further than that,  
13:57:32 32 Commissioner.  
13:57:32 33  
13:57:32 34 COMMISSIONER: Indeed, some of the exhibits that aren't yet  
13:57:34 35 up will be dealt with later today. The transcripts, as I  
13:57:37 36 understand it, have now, as far as Victoria Police is  
13:57:43 37 concerned, they have put in all their submissions and we're  
13:57:50 38 now just waiting for various corrections to the transcript  
13:57:52 39 to be made and they'll be going up shortly.  
13:57:55 40  
13:57:55 41 MR OTTER: Thank you Commissioner.  
13:57:56 42  
13:57:57 43 COMMISSIONER: Yes, we will try and deal with all  
13:57:59 44 transcript issues in future with a 48 hour turn around.  
13:58:02 45  
13:58:02 46 MR OTTER: Thank you, Commissioner, for that indication.  
13:58:04 47

13:58:04 1 COMMISSIONER: It would be my expectation that we should be  
13:58:07 2 able do that.  
13:58:08 3  
13:58:09 4 MR OTTER: Thank you. Nothing further, Commissioner.  
13:58:10 5  
13:58:10 6 COMMISSIONER: All right then. We're still waiting, are  
13:58:15 7 we, for Mr Dale's statement to be PIIed?  
13:58:21 8  
13:58:21 9 MR WINNEKE: We're waiting on that statement to be PIIed so  
13:58:25 10 as that can be provided to interested parties.  
13:58:27 11  
13:58:27 12 COMMISSIONER: That was due, on our request - that date's  
13:58:32 13 passed, has it?  
13:58:34 14  
13:58:34 15 MR WINNEKE: I think that date has passed. The date has  
13:58:38 16 passed in relation to a number of statements of witnesses  
13:58:41 17 who are to give evidence in the hearings commencing on 17  
13:58:49 18 June.  
13:58:49 19  
13:58:50 20 COMMISSIONER: Yes.  
13:58:50 21  
13:58:52 22 MR WINNEKE: Can I say this: the Victoria Police is an  
13:58:55 23 organisation which contains hundreds of members who on a  
13:58:58 24 daily basis prepare statements and it's simply unclear to  
13:59:04 25 the Commission why it takes such a long period of time for  
13:59:08 26 statements to be produced. We understand a number of  
13:59:11 27 statements have been sought. These are professional  
13:59:13 28 statement takers and givers and we're at a loss to  
13:59:16 29 understand why it takes so long. So that's the first  
13:59:21 30 thing. Obviously that's one of the points that  
13:59:23 31 Mr Hannebery addresses as to the limitation of resources.  
13:59:29 32 Can we make the suggestion that police officers make  
13:59:32 33 statements in the way in which other people make statements  
13:59:35 34 and that police officers make statements on a daily basis.  
13:59:39 35 Obviously they need to be checked, that's okay.  
13:59:40 36  
13:59:41 37 COMMISSIONER: Yes, I don't know how many layers of  
13:59:43 38 checking there are.  
13:59:44 39  
13:59:44 40 MR WINNEKE: Don't know, but when the Commission seeks  
13:59:47 41 statements from individuals who aren't represented, the  
13:59:49 42 statement's provided when it's requested. No doubt the  
13:59:52 43 person does it and records the issues and matters that they  
13:59:56 44 have knowledge of.  
13:59:58 45  
13:59:58 46 COMMISSIONER: And only seven days' notice is required  
14:00:01 47 under the *Inquiries Act*.

14:00:04 1  
14:00:04 2 MR WINNEKE: Clearly there are issues with respect to  
14:00:06 3 diaries, but nonetheless we understand that a significant  
14:00:09 4 period of time now has elapsed. Victoria Police really  
14:00:13 5 know who it is that are going to be providing statements.  
14:00:18 6 They've gathered together diaries and those diaries can be  
14:00:22 7 provided to people who, one assumes, can sit down with the  
14:00:27 8 diaries and make a statement. The assertion that is taking  
14:00:29 9 away limited resources in our submission really is a  
14:00:32 10 difficult one to accept. In any event, aside from that we  
14:00:35 11 understand that Victoria Police accepts that these hearings  
14:00:41 12 involving a significant component of Ms Gobbo's interaction  
14:00:48 13 with Victoria Police, in effect the main course of this  
14:00:51 14 Royal Commission, an important part of this Commission,  
14:00:54 15 requires that the people who are potentially affected be at  
14:00:57 16 the table. We seem to be in heated agreement about that.  
14:01:00 17 Mr Chettle suggests a sort of a hearing which involves a  
14:01:03 18 private aspect of it for some parts of it, those parts  
14:01:08 19 which create risks to the public and public interest  
14:01:10 20 immunity.

14:01:10 21  
14:01:11 22 COMMISSIONER: Once we've got all the material we should  
14:01:13 23 have we might be able to sort that out.  
14:01:15 24

14:01:16 25 MR WINNEKE: Well, the other point that he makes, and again  
14:01:18 26 I understand Mr Hannebery accepts this proposition, that  
14:01:21 27 those people who have been affected, or potentially  
14:01:24 28 affected, ought be provided with disclosure and ought be  
14:01:28 29 able to participate in the hearing to assist this  
14:01:32 30 Commission to determine whether or not their trials have  
14:01:37 31 been affected, the extent to which they've been affected.  
14:01:40 32 Everyone seems to be on the same page about that. We would  
14:01:43 33 urge Victoria Police to devote all of the resources that  
14:01:47 34 they have to this question of providing appropriate  
14:01:52 35 disclosure to these people and we're not talking about the  
14:01:56 36 universe, we're talking about a number of specific people,  
14:01:59 37 and to provide them with appropriate disclosure. Those  
14:02:03 38 obligations have been around for a long time and if they  
14:02:05 39 don't have sufficient resources at this stage, we'd urge  
14:02:09 40 them to get them. It's a large organisation with plenty of  
14:02:12 41 assets and plenty of resources. So we would certainly urge  
14:02:16 42 them to do everything that they possibly can to get those  
14:02:20 43 people the appropriate disclosure to which they're  
14:02:23 44 entitled.

14:02:24 45  
14:02:24 46 COMMISSIONER: And indeed to provide the material that  
14:02:26 47 they're required to provide to the Commission.

14:02:29 1  
14:02:29 2 MR WINNEKE: Well in effect to say to us, "Look, this  
14:02:31 3 material we are comfortable in you providing to these  
14:02:35 4 people". That's what we feel they can have and they ought  
14:02:40 5 to have. We can then assess that. That job's got to be  
14:02:45 6 done. It should have been started a long time ago but it  
14:02:48 7 certainly should be completed by 8 July in our submission.  
14:02:50 8  
14:02:51 9 COMMISSIONER: Yes.  
14:02:53 10  
14:02:53 11 MR WINNEKE: Thanks Commissioner.  
14:02:54 12  
14:02:57 13 COMMISSIONER: I think I've made that clear, what my hopes  
14:02:59 14 and expectations are, Mr Hannebery.  
14:03:01 15  
14:03:02 16 MR HANNEBERY: Yes, I don't think there's much point in  
14:03:04 17 repeating what's been said.  
14:03:05 18  
14:03:05 19 COMMISSIONER: Without repeating what has been said.  
14:03:09 20  
14:03:11 21 MR HANNEBERY: I don't necessarily accept all the things he  
14:03:12 22 said but I won't bother going through them.  
14:03:14 23  
14:03:15 24 COMMISSIONER: If necessary there'll be another directions  
14:03:17 25 hearing nearer the time. In the meantime our next concern  
14:03:25 26 are the hearings commencing on 17 June and, Mr Hannebery,  
14:03:33 27 Victoria Police has not met our expectations and hopes in  
14:03:38 28 respect of that hearing in terms of statements and material  
14:03:44 29 provided.  
14:03:45 30  
14:03:45 31 MR HANNEBERY: Yes.  
14:03:45 32  
14:03:46 33 COMMISSIONER: Can you tell when that's going to happen?  
14:03:48 34  
14:03:48 35 MR HANNEBERY: Yes, sorry, I'll just get to - I can give you  
14:03:54 36 an update on where the statements are at at the moment. It  
14:04:15 37 would assist if I just went through the list I have here as  
14:04:18 38 to where the witnesses that have been asked for statements  
14:04:26 39 are at the moment. Perhaps rather than do this I think - I  
14:04:59 40 understand that Victoria Police were asked for 53 witness  
14:05:03 41 statements, to produce 53 witness statements. Those  
14:05:07 42 witnesses who are required in the hearings commencing 17  
14:05:11 43 June have been prioritised and my instructions are that  
14:05:16 44 that task is well under way and - - -  
14:05:20 45  
14:05:21 46 COMMISSIONER: That wasn't 53.  
14:05:22 47

14:05:22 1 MR HANNEBERY: No, it wasn't.  
14:05:24 2  
14:05:24 3 COMMISSIONER: Before 17 June you were asked.  
14:05:27 4  
14:05:27 5 MR HANNEBERY: No, of those 53 the ones who are required for  
14:05:30 6 17 June have been prioritised and that task is well under  
14:05:34 7 way. I understand about three have been completed so far  
14:05:46 8 and obviously as others are completed they'll be provided.  
14:05:49 9  
14:05:50 10 COMMISSIONER: What about Dale's statement, because a large  
14:05:53 11 number of people were hoping to have his PIIed statement  
14:05:57 12 provided to them in sufficient time for them to prepare for  
14:06:01 13 the hearing on 17 June, so that's an important one. What's  
14:06:05 14 happening with that?  
14:06:18 15  
14:06:18 16 MR HANNEBERY: I understand that following some  
14:06:20 17 communication with counsel assisting yesterday it's been  
14:06:24 18 put up the priority list and that it'll be attended to in  
14:06:28 19 the next week - this week I'm told.  
14:06:31 20  
14:06:31 21 COMMISSIONER: It had better because it's quite urgent.  
14:06:34 22  
14:06:35 23 MR HANNEBERY: Yes.  
14:06:36 24  
14:06:36 25 COMMISSIONER: Yes, all right then.  
14:06:39 26  
14:06:40 27 MR CHETTLE: Commissioner, before Mr Winneke, can I - we  
14:06:42 28 were told that we apparently should be interested in Sol  
14:06:45 29 Solomon's statement. We haven't been given it yet. That's  
14:06:49 30 one of the things that I understood the Commission wanted  
14:06:52 31 us to get, but we haven't got it. And it would be useful  
14:06:55 32 if we could have some indication of who are the witnesses  
14:06:58 33 that are coming on the 17th and after.  
14:07:02 34  
14:07:03 35 MR WINNEKE: Commissioner, the first witness will be Paul  
14:07:06 36 Dale. We are waiting for the ability to provide that to  
14:07:12 37 other parties. We've got it, we can't provide it. We want  
14:07:16 38 to briefly call Mr Argall. We have a statement from  
14:07:22 39 Mr Buick. We have a statement from Mr Bateson. We don't  
14:07:25 40 have a statement from Mr Swindells. We do have a statement  
14:07:30 41 - I'm going through a list of a couple of days ago - we  
14:07:33 42 have a statement from Mr Swindells. Mr Allen, we are told  
14:07:37 43 a statement hasn't commenced. I'm reading through a list  
14:07:40 44 which is a couple of days old. Gavan Ryan, not commenced.  
14:07:46 45 L'Estrange, not commenced. Mark Hatt, not commenced.  
14:07:50 46 Michelle Kearly, not commenced. When I say not commenced,  
14:07:56 47 the statement taking process hasn't commenced. Jason



14:08:00 1 Kelly, should be received by 10 June. Dale Flynn  
14:08:05 2 commenced, should be received by 3 June.  
14:08:08 3  
14:08:08 4 COMMISSIONER: 3 June, that was Monday.  
14:08:10 5  
14:08:11 6 MR WINNEKE: Quite right. We haven't got it. In fact the  
14:08:14 7 date by which those statements, we expected to be provided  
14:08:20 8 with those statements, was in fact 3 June.  
14:08:22 9  
14:08:24 10 COMMISSIONER: Monday, yes.  
14:08:25 11  
14:08:26 12 MR WINNEKE: That's the state of play with respect to  
14:08:27 13 statements. We were told a statement from Mr Cornelius,  
14:08:31 14 albeit he's not going to be called in this tranche of  
14:08:34 15 hearings, was nearly finished. That was three weeks ago  
14:08:38 16 and we haven't got that. We would like that. If it's  
14:08:41 17 finished we would like it. But the other witnesses who are  
14:08:44 18 to be called on the 17th I've read through and I've told  
14:08:48 19 you what my instructions are about the state of play with  
14:08:52 20 respect to those statements.  
14:08:53 21  
14:08:54 22 COMMISSIONER: They won't all be called on the 17th.  
14:08:56 23  
14:08:57 24 MR WINNEKE: Excuse me - - -  
14:08:57 25  
14:08:58 26 COMMISSIONER: In the sittings, in the two weeks commencing  
14:09:00 27 the 17th.  
14:09:01 28  
14:09:02 29 MR WINNEKE: The situation with respect to Paul Rowe, we've  
14:09:04 30 got a question mark, we're not sure about that. The  
14:09:07 31 situation with respect to Tony Biggin, we've got a question  
14:09:10 32 mark because we don't know what the situation is with  
14:09:13 33 respect to his statement either. But those are the people  
14:09:15 34 who we anticipated having give evidence.  
14:09:20 35  
14:09:20 36 MR CHETTLE: What about O'Brien?  
14:09:22 37  
14:09:23 38 MR WINNEKE: Next time. Hold your horses.  
14:09:24 39  
14:09:25 40 COMMISSIONER: There was some thought that O'Brien might be  
14:09:27 41 called in this fortnight but he's not now?  
14:09:30 42  
14:09:30 43 MR WINNEKE: No.  
14:09:30 44  
14:09:31 45 COMMISSIONER: That's Mr Chettle's - - -  
14:09:33 46  
14:09:34 47 MR WINNEKE: Nonetheless we would like his statement.

14:09:39 1 COMMISSIONER: Yes, all right. You've taken that on board.  
14:09:42 2  
14:09:43 3 MR HANNEBERY: I've noted all those things.  
14:09:44 4  
14:09:44 5 COMMISSIONER: Thank you. I think then all I can say is  
14:09:50 6 what I've already said in terms of my hopes and  
14:09:53 7 expectations about the material to be provided to the Royal  
14:09:59 8 Commission and to those who may be affected, whose cases  
14:10:05 9 may be affected, that it is my hope and expectation that  
14:10:09 10 that material will be provided by Victoria Police to the  
14:10:13 11 Commission and those people by Monday 8 July.  
14:10:24 12  
14:10:25 13 Now there are some other matters I need to discuss  
14:10:28 14 with counsel but not - they probably won't affect all  
14:10:33 15 concerned, most of the people here. So feel free to leave  
14:10:36 16 if you wish. The matters that I intend to deal with are  
14:10:40 17 the proposed protocol which concerns Victoria Police and  
14:10:43 18 the State of Victoria. We'll be tendering some further  
14:10:51 19 exhibits relating to Ms Gobbo's dealings with the Legal  
14:10:57 20 Services Board. There are some disputes about the material  
14:11:03 21 to go in to some exhibits which will concern only Victoria  
14:11:08 22 Police and possibly the State of Victoria. I have to  
14:11:21 23 vacate an order which I can do forthwith. They're probably  
14:11:29 24 not really going to concern anyone except Victoria Police  
14:11:35 25 and the State of Victoria so anyone who wants to leave can  
14:11:39 26 now is most welcome.  
14:11:39 27  
14:11:39 28 Firstly then, I'm told, Mr Winneke, it's necessary for  
14:11:41 29 me to vacate an order that I made about Exhibit 60 about  
14:11:47 30 its non-publication and I'm told Exhibit 60 has been  
14:11:51 31 published on the website with agreed redactions. Therefore  
14:11:55 32 the order in relation to Exhibit 60 about its  
14:11:58 33 non-publication can be vacated?  
14:12:00 34  
14:12:00 35 MR WINNEKE: I understand that's correct, Commissioner.  
14:12:02 36  
14:12:04 37 COMMISSIONER: And I accordingly vacate that order. The  
14:12:08 38 next matter is the protocol. Mr Hannebery, you have a copy  
14:12:10 39 of the protocol?  
14:12:12 40  
14:12:13 41 MR HANNEBERY: I have a draft of it.  
14:12:15 42  
14:12:15 43 COMMISSIONER: A draft, it's only a draft. It's only in  
14:12:18 44 draft form.  
14:12:19 45  
14:12:19 46 MR HANNEBERY: I understood, that the last thing I was aware  
14:12:22 47 of was that Mr Holt had emailed with some suggestions in

14:12:26 1 relation to that draft and I haven't heard anything since  
14:12:29 2 then.  
14:12:29 3  
14:12:30 4 MR WINNEKE: Can I say this: as I understand it I think  
14:12:33 5 there's - and I spoke to Mr Hill about this last night -  
14:12:37 6 there appears to be general agreement about the nature of  
14:12:43 7 the protocol. I haven't discussed the actual, the  
14:12:49 8 fine-tuning of it, but as I understand it the general  
14:12:52 9 proposition is that rather than there be a staged process,  
14:12:57 10 as I understand, and I don't want to verbal Mr Hill and  
14:13:00 11 Mr Hannebery, but if there is an issue with respect to  
14:13:03 12 public interest immunity in relation to a particular  
14:13:05 13 document then both the State of Victoria and Victoria  
14:13:13 14 Police and the Commission will have discussions about it.  
14:13:15 15 If it's necessary to have submissions made or if there's a  
14:13:20 16 competition of views about it, well that will occur at the  
14:13:23 17 one stage with the State of Victoria and Victoria Police  
14:13:26 18 contributing to the discussion at the same time, rather  
14:13:28 19 than the staged process. I think the upshot of all that is  
14:13:32 20 that we're more or less in agreement about the way in which  
14:13:35 21 that should proceed. If I'm wrong about that I'll  
14:13:38 22 certainly let Mr Hill correct me.  
14:13:41 23  
14:13:41 24 COMMISSIONER: Mr Hill.  
14:13:42 25  
14:13:43 26 MR HILL: Commissioner, I hesitate to pass the bat to my  
14:13:47 27 learned friend but I think the detailed comments might come  
14:13:50 28 from police rather than the State, but my learned friend  
14:13:54 29 Mr Winneke certainly accurately states our, conversations  
14:13:58 30 that he had with me.  
14:14:00 31  
14:14:00 32 COMMISSIONER: Yes.  
14:14:01 33  
14:14:02 34 MR HANNEBERY: Commissioner, if I can dodge this question  
14:14:06 35 slightly by saying I understood it's a long way along the  
14:14:09 36 way to being resolved and I was hoping it might just be  
14:14:13 37 something we could deal with, the final fine-tuning of it,  
14:14:16 38 outside of the open court environment, especially given  
14:14:21 39 that obviously Mr Holt was the person who's more conscious  
14:14:26 40 of that.  
14:14:26 41  
14:14:27 42 COMMISSIONER: It seems to have completely stalled.  
14:14:29 43  
14:14:29 44 MR HANNEBERY: Yes. I don't think - from what I can see  
14:14:32 45 there was an email from Mr Holt on 23 May and I don't  
14:14:37 46 understand there's been any response or discussion since  
14:14:39 47 then on my understanding.

14:14:45 1  
14:14:46 2 MR WINNEKE: I've got a draft of the protocol which is a 21  
14:14:51 3 paragraph document.  
14:14:53 4  
14:14:53 5 COMMISSIONER: That's right, yes. I've got that here.  
14:14:55 6  
14:14:56 7 MR WINNEKE: Essentially - - -  
14:14:56 8  
14:14:57 9 COMMISSIONER: I've got a copy if anyone wants a copy.  
14:14:59 10 Does anyone need a copy at the Bar table or has everyone  
14:15:02 11 got a copy? Yes.  
14:15:06 12  
14:15:06 13 MR WINNEKE: The essence of it is that really I suppose in  
14:15:11 14 paragraphs 15 and 16 - - -  
14:15:12 15  
14:15:13 16 COMMISSIONER: So 15's okay, isn't it, that's what we were  
14:15:15 17 aiming to do?  
14:15:17 18  
14:15:18 19 MR WINNEKE: Yes, so 16 and 17. "Victoria Police or any  
20 other State or Commonwealth party considers any of those  
14:15:23 21 documents or the evidence of a witness is properly subject  
14:15:24 22 to PII, the party claiming PII will provide the Commission  
14:15:28 23 and the State of Victoria, as represented by the Department  
14:15:32 24 of Justice and community safety, with all documents in  
14:15:34 25 unredacted form two weeks before the witness is to give  
14:15:37 26 evidence subject to undertakings of confidentiality, and  
14:15:40 27 advise the Commission and the State of Victoria as  
14:15:44 28 represented as to what documents or parts of documents  
14:15:46 29 amongst those produced and/or what evidence said to be  
14:15:50 30 subject to PII. 17. If VicPol or any other State or  
14:15:55 31 Commonwealth party take issue with documents or evidence  
14:15:58 32 being adduced, counsel assisting the Commission and counsel  
14:16:03 33 for the party or parties making the PII claim will attempt  
14:16:08 34 to resolve any PII issues concerning the document or  
14:16:11 35 evidence in question. Where agreement cannot be reached  
14:16:13 36 the Commission will determine any PII claims at a hearing  
14:16:17 37 as soon as possible". Effectively that more or less  
14:16:19 38 encapsulates what I was suggesting, that it's all done.  
14:16:22 39  
14:16:22 40 COMMISSIONER: That's right. There was the earlier version  
14:16:26 41 which wasn't put forward by the Commission, it had another  
14:16:30 42 - it had involved Victoria Police and then it involved  
14:16:33 43 going to the State.  
14:16:34 44  
14:16:36 45 MR WINNEKE: In effect if there was disagreement between  
14:16:38 46 the - - -  
14:16:38 47

14:16:39 1 COMMISSIONER: We moved it all into one, so that I think  
14:16:42 2 encapsulates what you wanted. But there was an issue with  
14:16:47 3 this in that email of 23 May from Mr Holt. What was his  
14:16:50 4 difficulty?  
14:16:51 5  
14:16:51 6 MR WINNEKE: I don't understand that to - just excuse me a  
14:16:54 7 moment.  
14:16:55 8  
14:16:56 9 MR HANNEBERY: Mr Holt raised three issues. Can I just  
14:16:58 10 suggest that these might be issues we can resolve  
14:17:02 11 speaking - - -  
14:17:03 12  
14:17:03 13 COMMISSIONER: They haven't been resolved since 23 May.  
14:17:06 14  
14:17:06 15 MR HANNEBERY: To the extent they've been raised and there  
14:17:10 16 hasn't been any further discussion about them. It may well  
14:17:12 17 be that trying to negotiate this on our feet here is  
14:17:16 18 probably an ineffective way to do it. I'm happy, if it was  
14:17:20 19 stood down, we might be able to sort it out in the next  
14:17:24 20 little while.  
14:17:25 21  
14:17:25 22 COMMISSIONER: We might stand it down and then see if we  
23 can sort it out today because I'd rather sort it out today  
14:17:27 24 then just let it go on because when we let things go on  
14:17:29 25 they tend to go on for a very long time.  
14:17:33 26  
14:17:33 27 MR WINNEKE: No, I understand that. My instruction is that  
14:17:34 28 the situation is we proposed this protocol. It's a matter  
14:17:38 29 that the police and the State were going to sort out  
14:17:41 30 together. As I say, my discussions with Mr Hill suggest  
14:17:45 31 that we're in general agreement about it, there doesn't  
14:17:48 32 seem to be any problem. It may well be that Mr Hill and  
14:17:51 33 Mr Hannebery can have a brief discussion about it.  
14:17:53 34  
14:17:53 35 COMMISSIONER: We'll stand that down and deal with it  
14:17:55 36 later.  
14:17:56 37  
14:17:57 38 MR WINNEKE: Deal with it later, yes.  
14:17:58 39  
14:17:58 40 COMMISSIONER: The next item was the disputes about some of  
14:18:01 41 the exhibits needed to be sorted.  
14:18:09 42  
14:18:10 43 MR WOODS: Commissioner, there's one exhibit, Exhibit 120,  
14:18:13 44 that there are a number of outstanding issues on. I won't  
14:18:16 45 - because we're live I won't indicate what they are but if  
14:18:19 46 you have a copy of that in front of you.  
14:18:21 47

14:18:21 1 COMMISSIONER: I have a copy, a great deal of stuff in  
14:18:25 2 front of me.  
14:18:27 3  
14:18:27 4 MR WOODS: It's called an Investigation Chronology, behind  
14:18:31 5 tab 11 I'm told.  
14:18:32 6  
14:18:32 7 COMMISSIONER: Tab 11, thanks very much.  
14:18:36 8  
14:18:36 9 MR WOODS: Just while the Commissioner's finding that.  
14:18:39 10  
14:18:39 11 COMMISSIONER: Yes.  
14:18:39 12  
14:18:40 13 MR WOODS: It's been indicated to Victoria Police that the  
14:18:42 14 remaining redactions that have been requested won't be  
14:18:48 15 accepted unless there is some evidence or submissions that  
14:18:55 16 are provided to support them. I'm told by counsel for  
14:19:00 17 Victoria Police that there was a gentleman in court this  
14:19:02 18 morning who was to give evidence about these issues but  
14:19:06 19 he's had to leave. I didn't know that there was someone  
14:19:10 20 coming to give evidence about it today I must say, but that  
14:19:13 21 was certainly a possibility.  
14:19:14 22  
14:19:14 23 COMMISSIONER: Yes. If we'd known that that was the case  
14:19:17 24 of course we would have dealt with it earlier.  
14:19:19 25  
14:19:20 26 MR WOODS: We might well have, yes. In any event, it's the  
14:19:24 27 matters that have the orange tab. They relate to, and I'll  
14:19:27 28 be cautious about what I say, they largely relate to  
14:19:30 29 methodology, other than the first of them.  
14:19:35 30  
14:19:37 31 COMMISSIONER: These are the ones with the red around?  
14:19:40 32  
14:19:41 33 MR WOODS: The ones with the red circles around them as I  
14:19:44 34 understand it are the redactions that are already agreed.  
14:19:47 35  
14:19:47 36 COMMISSIONER: Okay.  
14:19:48 37  
14:19:49 38 MR WOODS: So those would be redacted in the final  
14:19:52 39 published version. The redactions that are sought are in  
14:19:55 40 relation to the words that are next to that orange box.  
14:19:57 41 The first of them on p.902 relates to perhaps an obvious  
14:20:05 42 issue.  
14:20:06 43  
14:20:06 44 COMMISSIONER: I'm not sure I have orange boxes.  
14:20:08 45  
14:20:09 46 MR WOODS: Perhaps you don't. It's 16 January. I've got  
14:20:11 47 a - - -

14:20:12 1  
14:20:12 2 COMMISSIONER: The one on 16 January, it's highlighted in  
14:20:14 3 green mine.  
14:20:17 4  
14:20:18 5 MR WOODS: Sorry, it might be mine. I'm colour-blind  
14:20:20 6 perhaps.  
14:20:21 7  
14:20:22 8 COMMISSIONER: Yes.  
14:20:23 9  
14:20:23 10 MR WOODS: It should have a large box on the left-hand side  
14:20:26 11 of the column which says "still pressed".  
14:20:31 12  
14:20:32 13 COMMISSIONER: I doesn't have that either, but I think I  
14:20:33 14 know that one.  
14:20:33 15  
14:20:34 16 MS ARGIROPOULOS: We can hand a copy if it assists the  
14:20:38 17 Commissioner but has the "still pressed" - - -  
14:20:40 18  
14:20:40 19 MR WOODS: If it is the fact that Victoria Police want to  
14:20:43 20 call evidence in relation to each of these, and I'm not  
14:20:45 21 sure whether the case, but if it is, and that individual is  
14:20:51 22 no longer here, then it might not be worth discussing now,  
14:20:54 23 so I might let my learned friend explain the situation.  
14:20:54 24  
14:20:54 25 COMMISSIONER: Are we in a position to deal with it today  
14:20:57 26 or not?  
14:20:57 27  
14:20:58 28 MS ARGIROPOULOS: Unfortunately not, Commissioner. As  
14:21:00 29 Mr Woods has indicated, a witness was here earlier today.  
14:21:03 30 I understood that had been communicated to instructors  
14:21:10 31 assisting the Commissioner that he was hear earlier today  
14:21:11 32 but I'm not sure if - - -  
14:21:11 33  
14:21:12 34 COMMISSIONER: What, that he couldn't stay? Not that he  
14:21:14 35 was here but that he couldn't stay?  
14:21:18 36  
14:21:18 37 MS ARGIROPOULOS: Yes. I'm not sure if that was  
14:21:20 38 communicated. I certainly communicated it at lunchtime.  
14:21:23 39  
14:21:23 40 COMMISSIONER: It was a bit late by then.  
14:21:25 41  
14:21:25 42 MS ARGIROPOULOS: It was too late by then, so I accept  
14:21:26 43 that. Unfortunately he had to catch a plane at 4 o'clock,  
14:21:29 44 I believe, so he's no longer here. There's certainly - - -  
14:21:33 45  
14:21:33 46 COMMISSIONER: All right, you want to press those. We need  
14:21:35 47 to do that when we have - - -

14:21:37 1  
14:21:37 2 MS ARGIROPOULOS: I am instructed that those claims are  
14:21:39 3 pressed and that evidence has to be called.  
14:21:40 4  
14:21:41 5 COMMISSIONER: All right. We'll have to have another  
14:21:42 6 directions hearing before long.  
14:21:43 7  
14:21:44 8 MR WOODS: It might be more efficient perhaps if Victoria  
14:21:47 9 Police provides a confidential affidavit explaining the  
14:21:48 10 basis of them and the Commissioner can make a determination  
14:21:51 11 of them in chambers, if that's convenient.  
14:21:55 12  
14:21:56 13 COMMISSIONER: And make their best submissions in - - -  
14:21:58 14  
14:21:59 15 MR WOODS: It might be more efficient than waiting for the  
14:22:01 16 next hearing perhaps.  
14:22:02 17  
14:22:02 18 COMMISSIONER: What about that, Ms Argiropoulos?  
14:22:06 19  
14:22:06 20 MS ARGIROPOULOS: I'm sorry, I'm just trying to seek  
14:22:08 21 instructions about the question about the affidavit rather  
14:22:10 22 than the witness giving evidence. We can do that. I think  
14:22:22 23 it may also be useful, and I've indicated this to my  
14:22:25 24 learned friend for counsel, to have a discussion about some  
14:22:26 25 of these exhibits which are still outstanding. I remain  
14:22:29 26 hopeful that some of these may be capable of resolution  
14:22:32 27 with discussions between counsel assisting. I know there  
14:22:36 28 have been discussions between counsel about this particular  
14:22:38 29 exhibit but there are others that seem to me to be capable  
14:22:42 30 of resolution. But certainly - - -  
14:22:46 31  
14:22:46 32 COMMISSIONER: I would have thought so too but, you know,  
14:22:50 33 they've been tendered some many weeks ago and it's still  
14:22:53 34 not sorted out.  
14:22:56 35  
14:22:56 36 MS ARGIROPOULOS: We received this particular list at  
14:23:01 37 something like 6.45 last night and have made our best  
14:23:05 38 endeavours to do what we can overnight in those  
14:23:09 39 circumstances. But looking at them again afresh myself  
14:23:15 40 overnight, it does appear to me, Commissioner, that some of  
14:23:21 41 them are capable of resolution based on the stage that  
14:23:25 42 we're at, which I understand there's already been  
14:23:27 43 discussions, certainly between those that instruct me and  
14:23:31 44 others but it's not necessarily been dealt with at a  
14:23:35 45 counsel level. So I think there is some benefit in that  
14:23:40 46 and I'm very happy to do that with Mr Woods or whoever else  
14:23:44 47 is available to facilitate that process so these exhibits



14:23:50 1 could be put on the website as soon as possible.  
14:23:52 2  
14:23:53 3 COMMISSIONER: All right. I'll let that happen at this  
14:23:56 4 stage and we'll see.  
14:23:58 5  
14:23:58 6 MR WOODS: Yes. And just as to the timing of the list, the  
14:24:00 7 list does no more than explains the current status of the  
14:24:04 8 negotiations and the claims. It wasn't new information.  
14:24:06 9  
14:24:06 10 COMMISSIONER: No, the claims - the requests for the PII  
14:24:10 11 and so forth had happened beforehand. Moving forward,  
14:24:13 12 we've got to do better than this. I would expect any such  
14:24:19 13 claims on exhibits to be sorted within 48 hours in future.  
14:24:23 14  
14:24:24 15 I'll stand those matters down in the hope that they  
14:24:28 16 can be sorted out in some way or other. If necessary  
14:24:30 17 they'll be mentioned again at a further directions hearing.  
14:24:35 18  
14:24:36 19 That then takes us to the tendering of a bundle of  
14:24:39 20 exhibits. I think, Ms Tittensor, you've been organising  
14:24:51 21 these exhibits. There's a bundle of 63 exhibits.  
14:24:55 22  
14:24:55 23 MS TITTENSOR: That's correct, Commissioner. These are  
14:24:57 24 exhibits received or documents received from the Legal  
14:25:03 25 Services Board dated variously between February 1997 up to  
14:25:12 26 July of 2013. There are 63 exhibits in total. I don't  
14:25:23 27 know that I need to take the Commissioner through each one.  
14:25:28 28  
14:25:28 29 COMMISSIONER: No.  
14:25:28 30  
14:25:29 31 MS TITTENSOR: They will need to be redacted in relation to  
14:25:32 32 a number of names and have pseudonyms replaced and there  
14:25:40 33 might be some PII issues in respect of a number of those  
14:25:43 34 documents, Commissioner.  
14:25:45 35  
14:25:46 36 COMMISSIONER: But they'll be sorted out in the next 24  
14:25:50 37 hours or so and then placed on the website. They will be  
14:25:56 38 Exhibits 158 to 221.  
14:26:02 39  
40 #EXHIBITS RC158-221 - Legal Services Board documents.  
41  
14:26:03 42 MS ARGIROPOULOS: Sorry, Commissioner, can I just clarify,  
14:26:05 43 I'm not aware of what these documents are but given the  
14:26:08 44 reference to PII is there an expectation that Victoria  
14:26:11 45 Police will be involved in the - - -  
14:26:13 46  
14:26:13 47 COMMISSIONER: Not really, no. They're Legal Services

14:26:17 1 Board documents so there are some names of people who have  
14:26:20 2 suppression orders, non-publication orders against them,  
14:26:24 3 including the one who we dealt with earlier today. It's  
14:26:27 4 just a question of taking those names out.  
14:26:29 5  
14:26:30 6 MS TITTENSOR: We're well aware of those particular issues.  
14:26:32 7  
14:26:33 8 COMMISSIONER: They're not Victoria Police documents,  
14:26:36 9 they're Legal Services Board documents.  
14:26:38 10  
14:26:39 11 MS ARGIROPOULOS: I just wanted to clarify, when PII was  
12 mentioned, whether there was anything we needed to do or  
13 not. I'm obviously conscious to make sure we don't miss  
14:26:42 14 any tasks.  
14:26:42 15  
14:26:43 16 COMMISSIONER: I understand. That's one job you won't have  
14:26:45 17 to do.  
14:26:45 18  
14:26:46 19 MS ARGIROPOULOS: Thank you, Commissioner.  
14:26:46 20  
14:26:47 21 COMMISSIONER: I'll just have an adjournment now for ten  
14:26:50 22 minutes or so in the hope that we'll be able to sort out  
14:26:53 23 the protocol.  
14:27:53 24  
14:27:53 25 (Short adjournment.)  
15:23:49 26  
15:23:49 27 COMMISSIONER: Yes Mr Winneke.  
15:23:50 28  
15:23:50 29 MR WINNEKE: Commissioner, I think by a process of  
15:23:53 30 community drafting we have resolved the issue of the  
15:23:56 31 protocol.  
15:23:57 32  
15:23:57 33 COMMISSIONER: Congratulations. Thank you. Excellent. So  
15:24:02 34 it's now a protocol and no longer a draft protocol?  
15:24:05 35  
15:24:06 36 MR WINNEKE: Indeed it is, yes.  
15:24:06 37  
15:24:07 38 COMMISSIONER: Well done. I think that means we can  
15:24:08 39 adjourn.  
15:24:09 40  
15:24:09 41 MR WINNEKE: I think it does. Nothing from this end of the  
15:24:14 42 Bar table.  
15:24:15 43  
15:24:15 44 COMMISSIONER: All right. We'll adjourn - unless we have  
15:24:21 45 another directions hearing beforehand - until 17 June.  
15:24:25 46  
15:24:26 47 ADJOURNED UNTIL MONDAY 17 JUNE 2019