

ROYAL COMMISSION INTO THE MANAGEMENT
OF POLICE INFORMANTS

Held in Melbourne, Victoria

On Thursday, 20 June 2019

Led by Commissioner: The Honourable Margaret McMurdo AC

Also Present

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

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

Counsel for State of Victoria Ms C. Fitzgerald

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

Counsel for DPP/SPP Mr P. Doyle

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

10:21:25 1 COMMISSIONER: Yes, Mr Woods.
10:21:27 2
10:21:28 3 MR WOODS: Good morning, Commissioner. I appear with
10:21:30 4 Mr Winneke and Ms Tittensor as counsel assisting.
10:21:32 5
10:21:33 6 COMMISSIONER: Yes.
10:21:33 7
10:21:34 8 MR COLLINSON: I appear with Mr Nathwani for Ms Gobbo.
10:21:37 9
10:21:38 10 COMMISSIONER: Thank you, Mr Collinson.
10:21:39 11
10:21:39 12 MR HANNEBERY: I appear with Ms Argiropoulos for Victoria
10:21:42 13 Police.
10:21:42 14
10:21:42 15 MR HILL: I appear for the State.
10:21:47 16
10:21:47 17 MR CHETTLE: I appear with Mr Theis for the handlers.
10:21:50 18
10:21:51 19 MR DOYLE: I appear for the DPP.
20
21 MS FITZGERALD: I appear for the Commonwealth Director of
10:21:55 22 Public Prosecutions.
10:21:55 23
10:21:55 24 COMMISSIONER: Thank you.
10:21:55 25
10:21:56 26 MR WOODS: Commissioner, there was some discussion
10:21:57 27 yesterday about dealing with some further matters in-chief
10:21:59 28 with Mr Kelly. Instead of that occurring now, those issues
10:22:04 29 will be dealt with at a later date, when Mr Kelly's asked
10:22:08 30 to return. So what's proposed this morning is that
10:22:12 31 Mr Kelly - I've finished my examination and so he'll be
10:22:17 32 cross-examined by anyone who has leave to do so.
10:22:20 33
10:22:20 34 COMMISSIONER: Yes, all right. Can Mr Kelly return to the
10:22:22 35 witness box. Thank you, Mr Kelly, and you're on your
10:22:27 36 former oath.
10:22:30 37
10:22:30 38 <JASON KELLY, recalled:
10:22:34 39
10:22:35 40 COMMISSIONER: Mr Collinson.
10:22:36 41
10:22:37 42 MR COLLINSON: If the Commissioner pleases.
43
44 <CROSS-EXAMINED BY MR COLLINSON:
45
10:22:39 46 Mr Kelly, I'm one of the counsel for Ms Gobbo. My name is
10:22:43 47 Collinson. Can I take you back to paragraph 17 of your

10:22:46 1 statement?---Yes.

10:23:06 2

10:23:06 3 You'll recall this was the event where you were conducting
10:23:18 4 some surveillance relating to Person 14 and then you
10:23:20 5 received notification from SDU that it was unnecessary to
10:23:24 6 undertake the surveillance because there was a human source
10:23:28 7 attending the function?---Correct, yes.

10:23:31 8

10:23:33 9 I take it that when you were told that, you weren't given
10:23:39 10 any information as to who the human source was or any
10:23:43 11 features of that person?---From memory, I don't believe so.

10:23:47 12

10:23:47 13 No. Anyway, shortly after that, you say in paragraph 18
10:23:55 14 that you reported the results of the observations of your
10:23:59 15 surveillance to Mr O'Brien and you then set out some things
10:24:07 16 that you say he told you in paragraphs A to F of paragraph
10:24:13 17 18, do you see that?---Correct.

10:24:15 18

10:24:16 19 Now, I take it that you don't have a very specific
10:24:21 20 recollection of the discussions you refer to in paragraphs
10:24:26 21 A to F?---No.

10:24:28 22

10:24:30 23 You didn't record anything in your diary about these
10:24:36 24 discussions with Mr O'Brien, did you?---No, I did not.

10:24:39 25

10:24:46 26 And I notice you preface that sentence of paragraph 18,
10:24:51 27 that is the second sentence, with the words, "I believe
10:24:54 28 that". Does that reflect an element of vagueness about
10:24:57 29 your recollection about the matters in A to F?---Without
10:25:02 30 the ability to refer to a note, or being that it's some
10:25:11 31 12-odd years, it's really on memory that I've articulated
10:25:17 32 the circumstances that I believe that I was advised of
10:25:24 33 Ms Gobbo's role.

10:25:25 34

10:25:26 35 Yes. I mean, is it possible that the information you set
10:25:29 36 out in A to F wasn't all acquired from Mr O'Brien, you
10:25:35 37 might have acquired it from other people at the Purana Task
10:25:37 38 Force?---I couldn't rule that out, but I believe Inspector
10:25:49 39 O'Brien was in charge of the Task Force and whilst I
10:25:54 40 couldn't rule it out, I would suggest that it would have
10:25:57 41 been from Inspector O'Brien.

10:25:59 42

10:25:59 43 Yes. So focusing on paragraph C, which refers to the
10:26:07 44 existence of safeguards and processes to manage concerns
10:26:12 45 that may arise by reason of Ms Gobbo's status as a
10:26:16 46 barrister, you actually don't recollect Mr O'Brien telling
10:26:19 47 you that, do you?---Well, Mr O'Brien would have indicated

10:26:30 1 to me the fact that the SDU was managing Ms Gobbo was
10:26:39 2 really the process and the sterile corridor, and I have a
10:26:46 3 better recollection that Inspector O'Brien made it fairly
10:26:49 4 clear that the information would be provided to him, he
10:26:52 5 would record that in his diary and then pass on the
10:26:54 6 information, either verbally or as appropriate, to the
10:27:00 7 investigators, including myself.
10:27:01 8
10:27:02 9 Yes. And those are the matters - that sterile corridor
10:27:06 10 procedure is something you describe in D to F of
10:27:12 11 paragraph 18, isn't it?---Yes.
10:27:21 12
10:27:22 13 I'm focusing, however, on paragraph C. I think you - if I
10:27:28 14 heard you correctly, I think you said a moment ago that
10:27:31 15 Mr O'Brien would have told you about the information in C.
10:27:35 16 Is that what you said a moment ago?---Well, yes, in the
10:27:39 17 sense that I suppose through the conversation describing
10:27:46 18 the fact that Ms Gobbo was reporting information to the
10:27:50 19 Source Development Unit and that effectively as an
10:27:56 20 investigator, I had no reason to engage with Ms Gobbo or
10:28:01 21 have information provided directly to me from Ms Gobbo, it
10:28:04 22 was all through the Source Development Unit.
10:28:06 23
10:28:10 24 Perhaps let me put it directly. I'm suggesting to you that
10:28:13 25 you don't really remember Mr O'Brien directly saying what's
10:28:18 26 set out in C, you've drawn an inference that he probably
10:28:22 27 said that to you?---It may have been a combination of
10:28:34 28 inference or the way he articulated to me. I think the
10:28:39 29 fact that he would have advised that Ms Gobbo, and the
10:28:45 30 management of Ms Gobbo and how that was conducted and the
10:28:48 31 policy that was to be complied with, I believe he would
10:28:51 32 have articulated it in that manner.
10:28:54 33
10:28:54 34 Yes?---Whether I took it - how I took it, certainly that's
10:29:01 35 how I've referred to it there in C.
10:29:04 36
10:29:04 37 I see. Now, you were a reasonably junior officer at the
10:29:08 38 time of this event in about 2006, weren't you?---I was a
10:29:12 39 Detective Sergeant at the time, so probably just over ten
10:29:17 40 years through my career, yes.
10:29:20 41
10:29:22 42 Is it fair to say that when you first learned of Ms Gobbo
10:29:26 43 acting as an informer and also being a barrister, you
10:29:30 44 didn't actually, in your own mind, devote any - have any
10:29:34 45 concern about that?---If I was directly involved, then
10:29:40 46 perhaps I would have thought about it in greater depth, but
10:29:45 47 the fact that it was being managed by another unit outside

10:29:49 1 of my area of responsibility and I was the recipient of the
10:29:53 2 information through that sterile corridor, I was
10:29:56 3 comfortable that appropriate safeguards and processes would
10:30:00 4 have been put in place by the organisation.

10:30:03 5
10:30:03 6 Yes. I'm focusing directly on the fact that Ms Gobbo was a
10:30:07 7 barrister and I'm not suggesting you should have thought of
10:30:12 8 this matter, I'm simply suggesting to you that when you
10:30:16 9 first learned that Ms Gobbo was also a barrister, you
10:30:19 10 didn't, in your own mind, devote any particular concern
10:30:22 11 about that feature of her professional life while at the
10:30:26 12 same time acting as an informer?---It was certainly unique,
10:30:30 13 something that I hadn't been involved in myself personally
10:30:34 14 and, as I say, I was the recipient of the information
10:30:39 15 through the sterile corridor down the pipe. As a Detective
10:30:46 16 Sergeant, I didn't think it was something that I needed to
10:30:50 17 personally turn my mind to.

10:30:52 18
10:30:52 19 Yes. You say in paragraph 20, the second sentence, that
10:30:58 20 although your general practice was to record details of
10:31:03 21 discussions, you didn't do so concerning a human source, in
10:31:09 22 order to protect the source?---I think you may have missed
10:31:13 23 the word "not". My general practice was to not record
10:31:18 24 details of discussions concerning human sources, in order
10:31:21 25 to protect them from risk.

10:31:23 26
10:31:23 27 Yes?---And that was a general practice. I mean, there
10:31:29 28 would be occasions where I may have written things down,
10:31:33 29 but, as a general rule, would avoid that.

10:31:35 30
10:31:37 31 Let me just explore that. If you acquire him - you were
10:31:41 32 managing other human sources around this time, weren't
10:31:44 33 you?---I don't believe I - certainly in my role prior to
10:31:51 34 commencing at the Purana Task Force, I had human source
10:31:55 35 interactions. At the time of the Purana Task Force, I had
10:32:00 36 contact with human sources either indirectly through other
10:32:06 37 law enforcement agencies or unregistered human sources, so
10:32:10 38 community contacts and the like.

10:32:11 39
10:32:12 40 But certainly registered human sources are given a
10:32:16 41 number?---In Victoria Police, yes.

10:32:17 42
10:32:17 43 And as you gather information from a human source, you
10:32:22 44 would be noting what that information is in your diary,
10:32:25 45 wouldn't you?---If you were the handler, then I would, yes.

10:32:34 46
10:32:35 47 Things like car registration numbers, addresses, telephone

10:32:38 1 numbers. You can't carry those things around in your head,
10:32:41 2 so you really have to note them in the diary, don't
10:32:44 3 you?---Correct.

10:32:44 4
10:32:45 5 So there really isn't any reason, is there, if you really
10:32:48 6 had this discussion with Mr O'Brien, or a number of
10:32:51 7 discussions on the matters you describe in A to F of
10:32:56 8 paragraph 18, why you wouldn't have noted it down in your
10:33:01 9 diary but referring to Ms Gobbo by her registration
10:33:04 10 number?---I wouldn't have known her registration number.

10:33:06 11
10:33:07 12 I see. All right. Now, if I could take you over the page
10:33:09 13 then, please, to paragraph 23. I've got the same kind of
10:33:20 14 question here. Do you see that you say in the second
10:33:24 15 sentence, "I assumed", you say, in relation to Ms Gobbo,
10:33:32 16 "that Victoria Police conducted the registration
10:33:34 17 authorisation in accordance with the policy", that you then
10:33:39 18 describe?---Yes. That applied at the time.

10:33:41 19
10:33:43 20 I'm really just enquiring about your actual state of mind
10:33:46 21 when you were having this engagement with Mr O'Brien and
10:33:52 22 I'm wanting to suggest to you that you probably didn't, at
10:33:56 23 that time, make any assumption about whether the relevant
10:34:00 24 procedures for the registration and authorisation of
10:34:03 25 Ms Gobbo accorded with any particular policy; I'm really
10:34:07 26 just suggesting you didn't turn your mind to it at the
10:34:11 27 time?---Any registered human source, once approved, would
10:34:19 28 have gone through the process or the policy for that final
10:34:27 29 activation of that human source. But whether I considered
10:34:34 30 whether that had occurred in relation to Ms Gobbo, again,
10:34:37 31 it was outside my area of responsibility and I was the
10:34:42 32 recipient of the information down the line, so it was not
10:34:45 33 something I was dealing with day-to-day.

10:34:47 34
10:34:47 35 Yes. Your evidence to the Commissioner then would be,
10:34:52 36 wouldn't it, that you don't have any specific recollection
10:34:55 37 that you made that assumption that you describe in the
10:34:58 38 second sentence of paragraph 23 back in 2006?---Well, I
10:35:01 39 think it is an assumption I would have drawn at the time.
10:35:04 40 If she's providing information as a registered human
10:35:08 41 source, I think it goes - it would have gone without
10:35:13 42 saying, to me, that the process would have been followed.
10:35:18 43 And for somebody to - for a Superintendent to sign off that
10:35:21 44 registration, then appropriate risk assessments would have
10:35:26 45 been conducted and policy complied with.

10:35:29 46
10:35:31 47 What about paragraph 26? Do you see that you say twice in

10:35:36 1 the two sentences comprising that paragraph that you
10:35:39 2 trusted that Victoria Police had done certain
10:35:57 3 things?---Correct.
10:35:57 4
10:35:58 5 My suggestion to you is, again, a very similar one. I'm
10:36:02 6 merely putting to you that you don't actually have a
10:36:04 7 recollection there in the witness box of having that state
10:36:09 8 of mind back in 2006, that you had the trust you describe
10:36:13 9 in paragraph 26?---When you say she had the trust, what do
10:36:18 10 you mean by that?
10:36:19 11
10:36:19 12 No, that you had the trust?---Yep.
10:36:21 13
10:36:21 14 You've described a state of trust that you had there in two
10:36:25 15 sentences. I'm simply putting to you you don't actually
10:36:28 16 have a recollection of having that state of mind at the
10:36:31 17 time?---Well, day-to-day in any duties I carry out, and at
10:36:41 18 this time, as a Sergeant, I would have formed the view that
10:36:45 19 if she was a registered human source, and a high-risk one
10:36:50 20 at that, that appropriate policies and safeguards would
10:36:53 21 have been, for want of a better description, ticked off to
10:37:00 22 allow her to be a registered human source.
10:37:02 23
10:37:02 24 You just used the expression "would have formed the view".
10:37:06 25 Do you recall using those words?---Yes - just then?
10:37:08 26
10:37:09 27 Yes?---Yes.
10:37:09 28
10:37:09 29 Doesn't that mean you don't have a specific recollection of
10:37:12 30 having this state of mind which you describe as trusting
10:37:14 31 Victoria Police?---Thirteen years on, I can't sit here and
10:37:22 32 say that I sat down and have a specific recollection. But
10:37:25 33 I believe that I either formed that view at the time or it
10:37:29 34 was something that I assumed or was comfortable that
10:37:37 35 appropriate actions would have been taken to put those
10:37:41 36 safeguards in place.
10:37:42 37
10:37:42 38 In particular, the second sentence talks about legal
10:37:49 39 professional privilege. I'm suggesting to you that you
10:37:50 40 didn't think about legal professional privilege presenting
10:37:53 41 some kind of issue with Ms Gobbo being an informer back in
10:37:56 42 2006?---Well, the fact that Ms Gobbo was a barrister and
10:38:01 43 she was a human source, that unique situation, I would have
10:38:09 44 believed that I would have - it would have been something
10:38:12 45 that would have gone through my mind. Whether I
10:38:14 46 specifically thought about it in terms of legal
10:38:21 47 professional privilege, but certainly that she would have

10:38:24 1 been privy to information that was quite confidential. And
10:38:29 2 again I go back to that I had trust in the policies at the
10:38:35 3 time and the fact that there was a Dedicated Source Unit
10:38:39 4 established as best practice and that the registration
10:38:44 5 would have been signed off by a Superintendent, I believe
10:38:46 6 those matters would have been addressed outside my area of
10:38:50 7 responsibility.

10:38:51 8
10:38:51 9 Yes. I appreciate that it might be said to be logical that
10:38:54 10 you might think about these matters. I'm simply putting to
10:38:59 11 you that you don't recollect actually doing so?---Thinking
10:39:03 12 about it?

10:39:04 13
10:39:04 14 Yes, specifically legal professional privilege as being an
10:39:08 15 issue with Ms Gobbo being an informer?---I think, 13 years
10:39:15 16 later, from memory, I believe that it would have been
10:39:18 17 something that I would have thought about. Again, not
10:39:22 18 something that I had direct control over, direct
10:39:25 19 responsibility for and I think it goes, in some ways,
10:39:34 20 hand-in-glove with the fact that she was a barrister and
10:39:37 21 she was a registered human source. Whether I dissected it
10:39:41 22 to the nth degree, I don't have a recollection of that.

10:39:47 23
10:39:47 24 Well, for example, you don't recollect discussing it with
10:39:50 25 anybody?---Not specifically, no.

10:39:51 26
10:39:51 27 And by "it", I mean legal professional privilege as
10:39:54 28 potentially being an issue with Ms Gobbo being an
10:39:57 29 informer?---No, I don't have a recollection of specifically
10:40:02 30 discussing it. Again, it was something outside of our
10:40:06 31 direct area of responsibility and the very nature of human
10:40:09 32 sources, it's not something that's discussed openly or -
10:40:20 33 and at my level, it was, again, outside of my area of
10:40:24 34 responsibility.

10:40:24 35
10:40:25 36 Yes. The last question relates to paragraph 34 of your
10:40:28 37 statement. You say in the first sentence that you were not
10:40:39 38 - and this is at the time of the arrest of Person 14 and
10:40:46 39 the attendance by Ms Gobbo at the police station in
10:40:52 40 relation to that arrest, do you recall that?---Yes.

10:40:55 41
10:40:57 42 You say in paragraph 34, "I was not completely comfortable
10:41:01 43 with Ms Gobbo attending as Person 14's lawyer". I want to
10:41:08 44 ask you again whether you actually remember having a level
10:41:12 45 of discomfort all that time ago?---Sorry [REDACTED]

10:41:19 46 [REDACTED]
10:41:22 47 [REDACTED]

10:41:22 1
10:41:22 2
10:41:24 3
10:41:24 4
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10:41:57 24
10:41:57 25
10:42:00 26
10:42:02 27
10:42:04 28
10:42:04 29
10:42:06 30
10:42:06 31
10:42:09 32
10:42:11 33
10:42:12 34
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10:42:57 47

[REDACTED]

MR COLLINSON: Don't worry about it, Mr Kelly.

COMMISSIONER: No, no. It's a bit of a minefield, really.

MR COLLINSON: I forget precisely where we were, but - you might have been asking me a question. But I was suggesting to you - or asking you whether you have an actual recollection of having some level of discomfort with Ms Gobbo attending as Person 14's lawyer?---As I stated there in paragraph 34, I was not completely comfortable, in that I was aware that Ms Gobbo had provided information that had resulted in the location of the clandestine laboratory being located and subsequently the arrest of persons and the fact that then Ms Gobbo attended on that

10:43:04 1 afternoon to speak to her clients, it was not a scenario
10:43:09 2 that was totally comfortable.
10:43:13 3
10:43:13 4 Yes. And my question of you is whether that's a view you
10:43:17 5 might have formed more recently, thinking about the
10:43:20 6 features you've just described, or whether you have actual
10:43:24 7 recollection of having this discomfort back then, in
10:43:28 8 2006?---I believe there would have been a level of
10:43:34 9 discomfort on that afternoon. But, as I say in the
10:43:39 10 statement, I was confident in the leadership of Detective
10:43:45 11 Inspector O'Brien and the professionalism of the Source
10:43:48 12 Development Unit to manage through that scenario.
10:43:52 13
10:43:52 14 Mr Kelly, when witnesses say "would have", it tends to
10:43:56 15 suggest that they don't have actual recollection. You just
10:44:00 16 said that there would have been a level of discomfort.
10:44:04 17 Does that mean you agree you don't have an actual
10:44:06 18 recollection of you being discomforted?---It wasn't a
10:44:12 19 discomfort to a level where I thought I would have needed
10:44:16 20 to call it out, but I believe the scenario was unique and
10:44:22 21 not one I'd experienced before. Again, I believe on that
10:44:27 22 particular afternoon I was confident in Detective Inspector
10:44:30 23 O'Brien and the Source Development Unit to step their way
10:44:34 24 through the scenario.
10:44:34 25
10:44:34 26 But can you remember being discomforted?---Yes, I would say
10:44:39 27 there would have been a level of discomfort.
10:44:43 28
10:44:43 29 I see.
10:44:44 30
10:44:44 31 COMMISSIONER: I think you're not going to do any better
10:44:47 32 than that, Mr Collinson.
10:44:48 33
10:44:48 34 MR COLLINSON: I'll take it no further. No further
10:44:49 35 questions, Commissioner.
10:44:49 36
10:44:50 37 COMMISSIONER: Yes. Mr Chettle?
10:44:54 38
10:44:54 39 MR CHETTLE: I seek leave to ask some questions,
10:44:57 40 Commissioner.
10:44:57 41
10:44:57 42 COMMISSIONER: Yes. No-one seems to be objecting, so
10:44:59 43 that's all right.
10:44:59 44
10:44:59 45 <CROSS-EXAMINED BY MR CHETTLE:
10:44:59 46
10:45:02 47 In short form, Mr Kelly, the concerns that you set out in

10:45:06 1 paragraph 18 - or the matters you set out in paragraph 18,
10:45:12 2 that you were taken through yesterday, you were confident,
10:45:17 3 from what you just said, that Mr O'Brien and the SDU had in
10:45:21 4 place processes to deal with those issues?---Yes.
10:45:26 5
10:45:30 6 Detective Inspector O'Brien was an extremely competent and
10:45:34 7 efficient police officer, wasn't he?---Yes, he was.
10:45:37 8
10:45:39 9 I'm not going to ask you to sing the praises of all the
10:45:43 10 members of the SDU, but you knew who they were?---Yes.
10:45:47 11 They were extremely professional, experienced and dedicated
10:45:50 12 members of Victoria Police.
10:45:51 13
10:45:51 14 And everything you saw about the way they went about their
10:45:54 15 jobs is consistent with what you've just said?---Correct.
10:45:58 16
10:45:58 17 Thank you. You were asked yesterday some questions about
10:46:11 18 an assertion made by Mr Woods that when they spoke to
10:46:15 19 Ms Gobbo for the first occasion, they said something like,
10:46:20 20 "Tell us everything you know about Tony Mokbel", remember
10:46:23 21 those questions yesterday?---Yes, I do.
10:46:25 22
10:46:25 23 Right. Did you have - from some of the answers you gave,
10:46:30 24 it would appear you had a general understanding about the
10:46:33 25 way in which the Source Development Unit was going to
10:46:35 26 operate generally in the handling of informers?---A very
10:46:41 27 general broad overview, without having in-depth knowledge.
10:46:46 28
10:46:47 29 But this had been a relatively new step for Victoria
10:46:51 30 Police?---It had, yes.
10:46:52 31
10:46:52 32 Prior to 2004, it had been the old-fashioned method of
10:46:56 33 putting people's names in safes and, effectively, the
10:47:00 34 investigator ran their own informers?---That's correct.
10:47:03 35
10:47:03 36 And this represented a fundamental change, where the
10:47:09 37 investigators were severed from the management of the
10:47:11 38 informer?---That's correct.
10:47:14 39
10:47:15 40 And that's the essence of the term "sterile corridor",
10:47:18 41 isn't it, it has got nothing to do with dissemination of
10:47:22 42 information, it's to do with the management of the
10:47:26 43 informer, that is the informer is managed by the unit, not
10:47:29 44 the investigator?---Correct.
10:47:30 45
10:47:32 46 So part of the process, as you understood it, was that
10:47:35 47 someone - an officer of sufficient rank would request that

10:47:39 1 the unit take over the management of a high-risk
10:47:46 2 informer?---Yes, high-risk informers were referred to the
10:47:49 3 Source Development Unit as appropriate.
10:47:51 4
10:47:53 5 Before you got there, Inspector - he was then Acting
10:47:57 6 Superintendent Hill - had made that request of the SDU.
10:48:01 7 Were you aware of that?---I'm only subsequently aware of
10:48:04 8 that. At the time, I was unaware.
10:48:05 9
10:48:05 10 Right. But he was the boss of your boss, wasn't he?---Yes,
10:48:11 11 he was, yes.
10:48:12 12
10:48:14 13 You would have expected, from what you said to Mr Woods
10:48:16 14 yesterday, that from the very start when they met her,
10:48:20 15 there would be an in-depth assessment made for the purposes
10:48:25 16 of risk assessment?---Yes.
10:48:27 17
10:48:31 18 In that regard, in your role as an investigator, at no
10:48:36 19 stage did you receive any legally professionally privileged
10:48:41 20 information from members of the SDU, did you?---Sorry,
10:48:44 21 during the course of the - - -
22
10:48:45 23 During the course of your role as an investigator dealing
10:48:48 24 with the SDU and the matters that are set out in your
10:48:52 25 statement, are you aware of any legally professionally
10:49:00 26 privileged information you received from the unit?---I'm
10:49:01 27 not aware I received intelligence. Now, whether that was
10:49:04 28 legally professionally privileged - - -
10:49:07 29
30 As you sit there now - - -?---I would not know.
31
10:49:08 32 - - - there's nothing that obviously stands out as
10:49:11 33 LPP?---Not that I'm aware of.
10:49:13 34
10:49:13 35 The suggestion that there was a targeting of existing court
10:49:25 36 cases, that is cases that Ms Gobbo was representing before
10:49:28 37 the courts at the time, is unknown to you, I take
10:49:31 38 it?---That's correct.
10:49:31 39
10:49:32 40 All the information you received from SDU related to
10:49:37 41 ongoing and future criminal activity?---Correct.
10:49:41 42
10:49:42 43 Indeed, some of it - you were asked about the dissemination
10:49:48 44 of information. Some information - or intelligence, I
10:49:51 45 think, if I use the word, is so important that it has to be
10:49:54 46 disseminated quickly?---Correct.
10:49:55 47

10:49:56 1 Before you came into the witness box, I handed you a piece
10:49:58 2 of paper with a name on it, did I not?---Yes.
10:50:01 3
10:50:01 4 I've shown it to counsel assisting. It relates to the
10:50:05 5 matter that you set out in your statement - I'll find the
10:50:11 6 reference.
10:50:12 7
10:50:12 8 COMMISSIONER: I haven't seen it, Mr Chettle.
10:50:14 9
10:50:15 10 MR CHETTLE: I'm about to hand it to you, Commissioner.
10:50:17 11
10:50:17 12 COMMISSIONER: Thank you.
10:50:17 13
10:50:18 14 MR CHETTLE: When I find the relevant - so you can relate
10:50:20 15 to the - 40, thank you. If you go to paragraph 40 of your
10:50:27 16 statement - no, 46 of your statement?---46?
10:50:30 17
10:50:30 18 Yes, thank you?---Yes.
10:50:31 19
10:50:32 20 Could you hand the piece of paper I've given you - firstly,
10:50:35 21 the name on that piece of paper relates to the person - is
10:50:38 22 the name of the person who was going to be killed,
10:50:41 23 according to the information, isn't it?---Yes, that's
10:50:43 24 correct.
10:50:43 25
10:50:44 26 And, as you understand it, there might be suppression
10:50:47 27 orders in relation to that name?---Correct.
10:50:48 28
10:50:50 29 Would you hand the name to the Commissioner, please.
10:50:59 30
10:51:00 31 COMMISSIONER: Thank you. I'd better tender that, I
10:51:06 32 suppose.
10:51:06 33
10:51:07 34 MR CHETTLE: I suppose, Commissioner.
10:51:07 35
10:51:08 36 COMMISSIONER: So that the transcript will make some sense.
10:51:10 37
10:51:11 38 #EXHIBIT RC238 - Piece of paper with name on it.
10:51:16 39
10:51:17 40 COMMISSIONER: And it will be placed in a sealed envelope
10:51:19 41 and marked not to be opened without an order from me.
10:51:24 42
10:51:25 43 MR CHETTLE: And in order to avoid metadata, or whatever
10:51:28 44 the word might be, you received a call from a member of the
10:51:34 45 SDU, giving you information similar to what you'd received
10:51:38 46 from another source, is that what it comes down
10:51:41 47 to?---Correct.

10:51:41 1
10:51:41 2 But it was the sort of information that related to a
10:51:44 3 contract or a death threat to an individual, that needs to
10:51:47 4 be dealt with promptly and efficiently, isn't
10:51:49 5 it?---Correct. It was life-threatening information.
10:51:51 6
10:51:52 7 And, as such, you don't write out an information report and
10:51:57 8 send it, you communicate it verbally, in order to quickly
10:52:01 9 get it dealt with?---Yes. There was a sense of urgency.
10:52:04 10
10:52:04 11 And, indeed, verbal dissemination from the SDU would occur
10:52:09 12 when there was an operational need or some sense of time
10:52:13 13 pressure in relation to what you were - - - ?---It was a
10:52:17 14 common practice of the SDU to disseminate information
10:52:21 15 verbally, followed up by an information report.
10:52:23 16
10:52:24 17 Subsequently there'd be a report that would catch up, which
10:52:27 18 would put in writing what you'd already been
10:52:29 19 told?---Correct.
10:52:29 20
10:52:30 21 All right. You were in receipt of information from
10:53:10 22 surveillance units, and things of the sort, from time to
10:53:12 23 time that indicated that Ms Gobbo wasn't your traditional
10:53:15 24 barrister, was she? In that sense, what I'm asking about
10:53:21 25 is her socialising?---Yes, there was both physical and
10:53:24 26 electronic surveillance that indicated that Ms Gobbo had a
10:53:29 27 relationship outside of her normal - what you would refer
10:53:33 28 to as a normal barrister's relationship with her clients.
10:53:36 29
10:53:36 30 She was observed socialising in restaurants, nightclubs,
10:53:41 31 things of that sort?---I'm not sure about the nightclubs,
10:53:46 32 but certainly restaurants and bars and things like that,
10:53:51 33 yes.
10:53:51 34
10:53:51 35 There's a photograph you may have seen of her standing
10:53:55 36 proudly between Benji Veniamin and Carl Williams. Have you
10:53:59 37 seen that photo?---It's a photo that was taken in relation
10:54:04 38 to a christening of - - -
10:54:07 39
10:54:07 40 Carl Williams' kid's christening?---I have seen that photo.
10:54:13 41
10:54:13 42 Those two men both represent serious criminals, don't
10:54:17 43 they?---They do, or did.
10:54:18 44
10:54:19 45 Murderers, both of them?---Certainly Carl Williams has been
10:54:24 46 convicted of murder and certainly Andrew Veniamin was a
10:54:27 47 person of interest in relation to a number of homicides.

10:54:29 1
10:54:29 2 He was a reputed hitman, wasn't he?---Yes.
10:54:32 3
10:54:32 4 Not the sort of bloke you invite to your normal barrister's
10:54:39 5 chambers, are they?---I'm not a barrister, but I suppose
10:54:43 6 there'd be some caution in relation to the dealings with
10:54:46 7 someone of that character.
10:54:47 8
10:54:47 9 The point I'm trying to get is it was apparent to Victoria
10:54:51 10 Police that she wasn't just a barrister, she was involved
10:54:56 11 intricately with criminals and their behaviour?---I'd agree
10:55:00 12 with that.
10:55:00 13
10:55:01 14 Such that you were concerned, as you said to Mr Woods
10:55:05 15 yesterday, about whether or not she was effectively trying
10:55:09 16 to suck information out of her handlers and feed it back to
10:55:14 17 her criminal cohorts?---Just to clarify that evidence from
10:55:18 18 yesterday, on two separate occasions approximately one year
10:55:21 19 apart, I must say, I received intelligence from two
10:55:26 20 different sources that suggested that perhaps Ms Gobbo was
10:55:32 21 providing information back to criminal entities or
10:55:37 22 established criminal networks.
10:55:38 23
10:55:42 24 In your role as a Sergeant, you were responsible for
10:55:45 25 getting, on occasions, IRs that emanated from SDU and
10:55:50 26 processing them?---Yes.
10:55:51 27
10:55:53 28 As I understand it, the evidence will be from the SDU that
10:55:57 29 your name appears on a large number of IRs, simply because
10:56:03 30 you would have been responsible for processing them. Does
10:56:06 31 that make sense to you?---Myself and other members of the
10:56:09 32 Purana Task Force, but there are a significant number of
10:56:13 33 information reports that were forwarded to me directly.
10:56:15 34
10:56:16 35 I'm not asking you to remember what they were. Knowing
10:56:19 36 that you were coming, my clients, members of the SDU, have
10:56:27 37 run a search of your name on the database and there are a
10:56:30 38 lot of IRs with your name on them, do you follow?---Yes.
10:56:33 39
10:56:33 40 That would be consistent with you ticking them off as you
10:56:36 41 received them or were processing them?---The process was
10:56:39 42 the information, generally, was verbally disseminated and
10:56:41 43 then in due course an information report was forwarded to
10:56:44 44 the Purana Task Force. The time frames sometimes varied
10:56:48 45 from quite a long delay and then in due course myself and
10:56:54 46 other members of the Purana Task Force would assess those
10:56:58 47 information reports and action them as appropriate.

10:57:01 1
10:57:02 2 The reason I ask you about that is you described two
10:57:07 3 incidents. Do you recall intelligence coming in from the
10:57:10 4 SDU that Ms Gobbo had been providing information to a man
10:57:13 5 called Oieda - I don't believe there's any breach of any
10:57:17 6 order in relation to him - in relation to police
10:57:21 7 technology, how phones work, how trackers work, things of
10:57:27 8 that sort?---Sorry, can you repeat that question?
10:57:30 9
10:57:30 10 Were you aware of an information report that indicated that
10:57:32 11 a man called Oieda, O-I-E-D-A, he's got all the vowels and
10:57:36 12 a D, was seeking information from Ms Gobbo about police
10:57:42 13 methodology?---I don't have a specific recollection of
10:57:45 14 that.
10:57:46 15
10:57:47 16 It's in one of the IR reports, but if you don't remember
10:57:52 17 it, it will come later on?---Not specifically. I don't
10:57:55 18 have a clear recollection of that.
10:57:56 19
10:57:56 20 All right. As to yesterday, you were asked questions by
10:58:02 21 Mr Woods that were prefaced on the basis of things like,
10:58:06 22 "Nicola has told us" or "Nicola said this" or "Nicola has
10:58:10 23 given us this information", do you recall questions along
10:58:13 24 those lines? I can dig them out of the transcript, if you
10:58:16 25 like?---As in Nicola had told the SDU information?
10:58:20 26
10:58:20 27 Yes?---Yes.
10:58:21 28
10:58:21 29 And they would then pass on information to you and it was
10:58:23 30 framed as if they would use her name as Nicola. What I'm
10:58:27 31 suggesting to you is that they were always trying to
10:58:29 32 conceal her identity as a source?---I'd agree with that.
10:58:33 33
10:58:33 34 And if they did talk to you, they'd say "the source" or
10:58:37 35 perhaps use her number?---Correct. As time progressed on,
10:58:40 36 the number was utilised.
10:58:44 37
10:58:44 38 And it changed at one stage?---I believe it did, yes.
10:58:47 39
10:58:47 40 Because you knew who she was, but they weren't telling you
10:58:52 41 who she was. They knew you knew, but they still tried to
10:58:56 42 preserve - they were reluctant to speak her name, put it
10:58:59 43 that way?---I would agree with that.
10:59:01 44
10:59:06 45 She was the subject of serious threats, wasn't she? The
10:59:13 46 threats weren't trivial, they were serious threats?---Yes.
10:59:16 47

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11:00:52 47

Threats of death?---Yes.

And backed up by car bombs?---That's correct.

[REDACTED]

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11:01:53 35
11:01:55 36
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11:02:00 38
11:02:00 39
11:02:05 40
11:02:11 41
11:02:15 42
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[REDACTED]

MR CHETTLE: I'll try and put it in a neutral way. She had been subjected to threats, consistent with her having good reason to be scared of the people you were interested in?---Certainly.

You understood that she - well, that she would turn up for clients who were in some way connected to Tony Mokbel's cartel of drug dealers? She'd turn up at court cases or turn up at police stations in relation to clients who'd

11:02:38 1 been arrested?---Correct.

11:02:39 2

11:02:40 3 And there was a common link; these people were Mokbel

11:02:49 4 apparatchiks, as it were?---Mr Mokbel's established

11:02:52 5 criminal network certainly was a large one and involved a

11:02:57 6 number of people.

11:03:00 7

11:03:04 8 The point I'm trying to make in one question is she had

11:03:08 9 good reason to be frightened of him? Well, put it this

11:03:12 10 way: if she said she was, you'd accept she was?---I'd

11:03:17 11 accept that, yes.

11:03:18 12

11:03:20 13 The last thing, you said - in relation to the threats that

11:03:25 14 were being made to her, there's a difference between a

11:03:33 15 solicitor or a barrister being a source, in the sense of

11:03:37 16 intelligence, and a solicitor and a barrister dealing with

11:03:41 17 the police in order to get their clients to make a

11:03:45 18 statement, cooperate and get the benefit that goes with

11:03:49 19 that, is there not?---Correct.

11:03:51 20

11:03:52 21 Is it your understanding that there was a great deal of

11:03:56 22 hostility amongst the criminals because clients of Nicola

11:04:04 23 Gobbo were taking that course, that is, getting a benefit

11:04:07 24 by assisting the police and making statements against

11:04:10 25 others?---A number of her clients had reduced sentences as

11:04:14 26 a result of their cooperation with Victoria Police in terms

11:04:15 27 of making statements.

11:04:16 28

11:04:17 29 And she wouldn't be alone; that's what barristers do, isn't

11:04:20 30 it, get in early, rat and get the discount?---On a number

11:04:23 31 of occasions, barristers brought forward persons charged to

11:04:27 32 provide statements that then ultimately resulted in, I

11:04:30 33 suppose, a better outcome for them in terms of a reduction

11:04:34 34 in sentence.

11:04:34 35

11:04:34 36 Finally, the threats that were made to her, in your

11:04:38 37 opinion, were because of concerns or perceptions that her

11:04:42 38 clients were doing just what I described, making statements

11:04:45 39 against others?---I think that's a fair description. That

11:04:49 40 is possibly one of the reasons that she was subject to

11:04:54 41 threats.

11:04:55 42

11:04:55 43 Thank you. Thank you, Commissioner.

11:04:58 44

11:04:59 45 COMMISSIONER: Thank you. No other cross-examination?

11:05:03 46 Mr Woods.

11:05:06 47

1 <CROSS-EXAMINED BY MR WOODS:
2
11:05:07 3 Just a couple of issues, Commissioner. Mr Kelly,
11:05:11 4 yesterday, prior to the close of the hearing, I asked
11:05:13 5 whether you had prepared a previous statement and you
11:05:18 6 indicated that you had and I asked you to bring it along
11:05:20 7 today and I've been provided with a copy of
11:05:25 8 that?---Correct.
11:05:26 9
11:05:26 10 That's a five-page statement, is that correct? Do you have
11:05:28 11 a copy of it there?---I do.
11:05:29 12
11:05:30 13 And that's a statement that you prepared without assistance
11:05:34 14 from Landow or your solicitors; is that right?---That's
11:05:38 15 correct. Upon receiving a request for a statement, I
11:05:40 16 commenced that, with the tight timeframes, and it was
11:05:44 17 basically a draft, or a very rough draft, to commence the
11:05:50 18 process.
11:05:50 19
11:05:50 20 I understand. Did you have assistance with drafting this
11:05:54 21 statement or you just did this on your own and then
11:05:57 22 provided it to the solicitors assisting?---That's correct.
11:06:01 23
11:06:01 24 Was it provided to Landow or was it provided to the
11:06:04 25 solicitors, or both?---Certainly the solicitors. I'm not
11:06:06 26 sure whether it went through Landow.
11:06:09 27
11:06:10 28 And it's correct to say that it essentially follows the
11:06:13 29 structure of the statement that you ultimately have
11:06:16 30 provided to the Commission, that's right, isn't
11:06:20 31 it?---Correct. I've reviewed it overnight and it is
11:06:23 32 consistent with the statement.
11:06:24 33
11:06:24 34 When is it that you prepared this draft statement?---The
11:06:27 35 specific date I don't have off the top of my head, but it
11:06:30 36 would have been shortly after receiving a question from the
11:06:33 37 Commission to provide a statement.
11:06:34 38
11:06:34 39 Can you place that in time? Do you know when you received
11:06:36 40 that, just vaguely even? Was it days ago, weeks ago,
11:06:41 41 months ago?---I think I was actually summonsed for day one
11:06:45 42 of the Commission.
11:06:46 43
11:06:46 44 So this is back January/February?---I'd say around the
11:06:51 45 February/March period.
11:06:52 46
11:06:53 47 Did you get to work on this immediately on understanding

11:06:55 1 what was being asked of you?---Shortly thereafter, I would
11:06:58 2 suggest.
11:06:58 3
11:06:58 4 Okay. When did you provide this draft to your
11:07:06 5 solicitors?---I don't have a specific recollection.
11:07:09 6
11:07:10 7 Back then, when you prepared it, or was it later on?---It
11:07:13 8 would have been shortly after I prepared it, I think. Then
11:07:16 9 I was engaged with solicitors and I would have provided
11:07:19 10 that as the commencement of the statement-taking process.
11:07:25 11
11:07:25 12 At the bottom of the second page, there's a sentence
11:07:30 13 there - I should say the others at the Bar table don't have
11:07:32 14 a copy of this yet because I've just been handed it this
11:07:35 15 morning, but there will, no doubt, be some redactions that
11:07:38 16 are required, as there were with the statement - not to
11:07:41 17 this bit, I'm sure. You say in the following - so in this
11:07:45 18 bottom paragraph, you talk about the following days after
11:07:47 19 you were told about Ms Gobbo acting as a human source and
11:07:52 20 this is what this paragraph's about and information that
11:07:55 21 you received, that's generally what this paragraph says.
11:07:58 22 Now, the last sentence says, "I was advised processes were
11:08:03 23 in place by the SDU to avoid any concerns relevant to her
11:08:07 24 position as a solicitor and barrister (legal professional
11:08:12 25 privilege)"?---Correct.
11:08:13 26
11:08:14 27 So your position is that someone told you - you were
11:08:18 28 specifically advised that processes were in place to avoid
11:08:22 29 any concerns about legal professional privilege?---It may
11:08:27 30 not have been as strong or as clear as that.
11:08:32 31
11:08:32 32 Well, in your statement, that you made yourself?---Yep.
11:08:35 33
11:08:35 34 You say you were advised?---Yep. So bearing in mind the
11:08:39 35 statement was made without the benefit of diaries at the
11:08:43 36 time, emails and it was very much a very tight time frame
11:08:48 37 to provide a statement as requested by the Commission. So
11:08:53 38 I don't back away from the fact that the conversation I had
11:08:56 39 with Jim O'Brien was around the fact that processes were
11:09:00 40 put in place to deal with, I suppose, the issue of Ms Gobbo
11:09:06 41 being a solicitor.
11:09:08 42
11:09:08 43 But here you specifically say, "I was advised processes
11:09:11 44 were in place by the Source Development Unit to avoid any
11:09:15 45 concerns relevant to her position as a solicitor and
11:09:17 46 barrister, legal professional privilege"?---Yes.
11:09:20 47

11:09:20 1 So that is something that you were specifically told by Jim
11:09:22 2 O'Brien?---Jim O'Brien would have been the only person I
11:09:26 3 had those conversations with.

11:09:28 4
11:09:28 5 Right. So it was him that told you processes were in place
11:09:32 6 to deal with legal professional privilege, to avoid legally
11:09:36 7 professionally privileged communications?---Just a caveat
11:09:40 8 that, I suppose, in the sense the head of the Source
11:09:45 9 Development Unit was someone I didn't know very well prior
11:09:47 10 to my time at Purana Task Force, so I couldn't rule out it
11:09:53 11 wasn't - but I really believe it would have been Jim or - I
11:09:58 12 really can't think of anyone else.

11:10:00 13
11:10:00 14 That's right. But someone told you that?---Certainly
11:10:03 15 somebody did, yes.

11:10:04 16
11:10:04 17 Okay. In your statement that has been filed with the
11:10:07 18 Commission, you say you trusted Victoria Police had put in
11:10:13 19 place safeguards to deal with not receiving information
11:10:16 20 that was the subject of legal professional privilege, but
11:10:19 21 in fact in your statement that you drafted on your own, you
11:10:24 22 said you were actually specifically advised about that, and
11:10:27 23 the situation is you were specifically advised about it, I
11:10:30 24 suggest?---Can you repeat that, please?

11:10:32 25
11:10:32 26 In your statement, your own statement that you've prepared
11:10:36 27 as a draft?---Yes.

11:10:36 28
11:10:37 29 You say you were advised that processes were in
11:10:41 30 place?---M'mm.

11:10:41 31
11:10:42 32 In the statement that's been filed with the Commission, you
11:10:45 33 say you trusted processes were in place. What I'm
11:10:47 34 suggesting to you is that the true position is your own
11:10:49 35 position that you recorded in your own document, which is
11:10:53 36 that you were told specifically - when you were told, or
11:10:57 37 around the time you were told that Ms Gobbo was acting as a
11:11:00 38 human source, you were told processes were in place to
11:11:03 39 avoid the obtaining of information that was subject to
11:11:06 40 legal professional privilege, that's something you were
11:11:08 41 told, because you say so in your original statement. It's
11:11:13 42 got to be the case, doesn't it?---Well, bear in mind this
11:11:19 43 was a draft. This was a dump of information.

11:11:22 44
11:11:23 45 I understand it's your draft, but it's your draft?---Yes.

11:11:25 46
11:11:25 47 You prepared it and you say you were advised. Now, that

11:11:28 1 must be that someone told you?--Well, yeah, I don't back
11:11:31 2 away from that.
11:11:32 3
11:11:32 4 And the one person you spoke to was Jim O'Brien?--Well,
11:11:35 5 certainly Jim, the head of the Source Development Unit and
11:11:39 6 one other Detective Sergeant who sat over - who was part of
11:11:46 7 investigating the drug activity.
11:11:48 8
11:11:49 9 But the conversations that you're recording are
11:11:50 10 conversations with Jim O'Brien. So Jim O'Brien was the one
11:11:53 11 who advised you of this, wasn't he?--I didn't record the
11:11:57 12 conversation with Jim O'Brien in terms of notes.
11:11:59 13
11:11:59 14 But it was Jim O'Brien, wasn't it?--I believe it was, I
11:12:03 15 suspect it was, but it is 13 years ago.
11:12:05 16
11:12:05 17 Okay.
11:12:07 18
11:12:08 19 MR CHETTLE: Commissioner, can I ask - he just referred to
11:12:12 20 a man as the head of the SDU. Now, it would be appropriate
11:12:15 21 if he identify who he was talking about.
11:12:19 22
11:12:19 23 MR WOODS: Do you have that list of names in front of you?
11:12:22 24 If not, I can pass it to you.
11:12:25 25
11:12:25 26 COMMISSIONER: No, he doesn't.
11:12:26 27
11:12:26 28 MR WOODS: It's a flash card, I think?--I may be able to
29 find it in the - - -
30
11:12:28 31 Was it Biggin?--Jones.
11:12:31 32
11:12:31 33 Jones. I understand. But as I understand your evidence,
11:12:38 34 you accept that the conversations that you were having at
11:12:42 35 this early stage were specifically with Jim O'Brien. Jim
11:12:47 36 O'Brien's the one who first told you that Nicola Gobbo was
11:12:50 37 a human source, wasn't he?--Correct.
11:12:53 38
11:12:53 39 And in the first couple of days afterwards, those
11:12:55 40 conversations that you were having about Nicola Gobbo
11:12:58 41 acting as a human source were with Jim O'Brien, they
11:13:01 42 weren't with the SDU?--That's correct.
11:13:02 43
11:13:03 44 So you accept then that the person who advised you about
11:13:06 45 the avoiding of LPP was in fact Jim O'Brien?--13 years
11:13:10 46 later, I believe that would have been the case.
11:13:13 47

11:13:13 1 Okay.
11:13:14 2
11:13:14 3 COMMISSIONER: Do you want to tender that statement?
11:13:15 4
11:13:16 5 MR WOODS: I do, but it will need to be dealt with, so in
11:13:20 6 its unredacted form.
11:13:22 7
11:13:23 8 MS ARGIROPOULOS: Before that happens, could I be heard on
11:13:23 9 that? I was not aware that Mr Woods had an intention to
11:13:27 10 tender that document. There may well be an objection to
11:13:29 11 that, on the basis of legal professional privilege, and if
11:13:32 12 it is sought to be tendered - on the basis that it's a
11:13:34 13 draft provided for the purposes of legal advice. That's a
11:13:41 14 matter which I need to get instructions on, given I was not
11:13:44 15 aware that this was a proposed document which was sought to
11:13:47 16 be tendered, and the document would need PII review as
11:13:52 17 well.
11:13:52 18
11:13:52 19 COMMISSIONER: Are you objecting to it or not?
11:13:55 20
11:13:55 21 MS ARGIROPOULOS: As I said, I need those instructions. I
11:13:57 22 wasn't aware - from discussions I've had with Mr Woods, it
11:14:01 23 was - - -
11:14:01 24
11:14:01 25 COMMISSIONER: You should be in a position,
11:14:03 26 Ms Argiropoulos, to say whether you're objecting or not
11:14:06 27 objecting to this.
11:14:08 28
11:14:08 29 MR WOODS: The reason we haven't had a discussion is
11:14:11 30 because I only received it this morning and was reading it
11:14:14 31 while the witness was being cross-examined.
11:14:15 32
11:14:16 33 COMMISSIONER: You called for it yesterday.
11:14:17 34
11:14:18 35 MR WOODS: In any event, I should - just to pre-empt that,
11:14:20 36 the position is that under the Act, privilege is not
11:14:25 37 waived. That doesn't prevent - it's not a reasonable
11:14:28 38 excuse for not producing to the Commission.
11:14:31 39
11:14:31 40 COMMISSIONER: That's right.
11:14:32 41
11:14:32 42 MR WOODS: So any discussion about those sorts of issues -
11:14:34 43 and I'm sure we will be calling for other drafts, so this
11:14:37 44 issue will arise.
11:14:44 45
11:14:44 46 COMMISSIONER: I'll mark it for identification.
11:14:49 47

11:14:49 1 MR WOODS: No, it's been called for. It's not a reasonable
11:14:52 2 excuse not to provide it. It has been provided.
11:14:55 3
11:14:55 4 COMMISSIONER: It has been provided. You've cross-examined
11:15:00 5 about it.
11:15:01 6
11:15:01 7 MR WOODS: Privilege is not waived.
11:15:02 8
11:15:03 9 COMMISSIONER: You sought to tender it.
11:15:05 10
11:15:05 11 MR WOODS: Yes.
11:15:05 12
11:15:06 13 COMMISSIONER: Is an objection being taken to its tender or
11:15:08 14 not?
11:15:08 15
11:15:09 16 MS ARGIROPOULOS: The objection, Commissioner, is to
11:15:10 17 publication. Legal professional privilege, under s.32 of
11:15:21 18 the Inquiries Act, is not an excuse for failing to produce
11:15:24 19 or answer questions, and that's been done, but the Act
11:15:26 20 specifically says that information or documents don't cease
11:15:29 21 to be the subject of legal professional privilege only
11:15:32 22 because they're given or produced as required under the
11:15:39 23 Act. But I'm instructed that the objection is not to
11:15:41 24 tender but to publication of the document.
11:15:47 25
11:15:48 26 COMMISSIONER: You're not wanting any more time to make
11:15:50 27 that, that's your submission now?
11:15:55 28
11:15:56 29 MS ARGIROPOULOS: The other point that I'd make,
11:15:58 30 Commissioner, is that the part of the statement which has
11:16:01 31 been cross-examined on has in fact been adopted and
11:16:05 32 therefore the basis for the tender of the statement is
11:16:08 33 not - has not been established, in that there's no
11:16:12 34 inconsistency or anything else in the statement which is
11:16:15 35 sought to be relied on. I understand this is an inquiry
11:16:18 36 and the rules of evidence don't apply, but it's not clear
11:16:22 37 to me the basis on which there would need to be a tender,
11:16:26 38 or if there is a tender, why it would need to be published,
11:16:32 39 given Mr Kelly's evidence is set out in the statement which
11:16:34 40 has been published and the subject of the PII rulings by
11:16:38 41 the Commissioner.
11:16:39 42
11:16:39 43 COMMISSIONER: Yes. I'm going to tender it as
11:16:47 44 Exhibit 234C. It seems relevant to the history of the
11:16:53 45 taking of this witness' evidence, it's not a question of
11:16:57 46 legal professional privilege, but in any case, the
11:17:02 47 Commission is not prohibited from obtaining documents

11:17:07 1 because of legal professional privilege, but it's directly
11:17:11 2 relevant to the witness's evidence and his original
11:17:14 3 recollection. Even in a court of law it seems to me it
11:17:19 4 would be admissible. It's certainly admissible before this
11:17:23 5 Commission.

11:17:24 6
11:17:24 7 #EXHIBIT RC234C - Unredacted statement of Kelly.

11:17:28 8
11:17:24 9 #EXHIBIT RC234D - Redacted statement of Kelly.

11:17:28 10
11:17:28 11 I will give Victoria Police 24 hours to make any
11:17:31 12 submissions about public interest immunity matters, in case
11:17:36 13 there's something of that nature in it.

11:17:39 14
11:17:39 15 MR WOODS: There's, no doubt, some redactions that will be
11:17:44 16 needed to the document as a separate issue.

11:17:45 17
11:17:45 18 COMMISSIONER: Redactions will be needed. This one will be
11:17:49 19 234C and in due course the redacted initial statement will
11:17:53 20 be 234D.

11:17:55 21
11:18:00 22 MR WOODS: Just two more issues, Mr Kelly. The first of
11:18:03 23 those is some questions that were asked of you by
11:18:07 24 Mr Chettle about whether or not you received any
11:18:11 25 information from the SDU that they'd obtained from Nicola
11:18:18 26 Gobbo that was legally professionally privileged, do you
11:18:23 27 remember those questions?---Yes.

11:18:24 28
11:18:24 29 I wasn't quite sure of the final answer you gave, but it's
11:18:27 30 the case, as I understand it, that you, as you sit here
11:18:30 31 now, you don't know what might have been privileged and
11:18:32 32 what might not have been privileged because you didn't have
11:18:37 33 to turn your mind to it, it was simply information you were
11:18:40 34 obtaining; is that right?---That's correct.

11:18:41 35
11:18:42 36 So you just don't know whether it was privileged or
11:18:44 37 not?---Correct.

11:18:44 38
11:18:44 39 Lastly, you were asked some questions by Mr Chettle
11:18:47 40 concerning the identity and the concealment or otherwise of
11:18:53 41 the identity of Ms Gobbo as the source of particular
11:18:56 42 information that the SDU were passing on, you recall those
11:19:00 43 questions, whether or not it had come from Nicola Gobbo,
11:19:07 44 whether or not she was identified by the SDU, whether or
11:19:09 45 not her number was used, some questions about that?---Yes,
11:19:11 46 I do remember those.

11:19:12 47

11:19:13 1 At paragraph 26 of your statement - sorry, it might not be
11:19:20 2 26. It's paragraph 24 of your statement, and I asked you
11:19:23 3 some questions about this yesterday. You say, "Some
11:19:26 4 handlers were more guarded than others about the source of
11:19:29 5 information provided to me. I was sometimes aware that
11:19:31 6 Ms Gobbo was the source of information I received". In
11:19:34 7 answer to some questions that I asked you yesterday, you
11:19:37 8 told me - you told the Commission, sorry, that sometimes
11:19:39 9 they would say to you, "This information has come from
11:19:42 10 Nicola", that's correct?---Correct.

11:19:46 11
11:19:46 12 And at the times when - you said, in answer to questions
11:19:50 13 that Mr Chettle asked you, later on they were more guarded
11:19:54 14 in a general sense and started using Ms Gobbo's number to
11:19:58 15 you; is that correct?---At times.

11:19:59 16
11:20:00 17 And when they said that number to you, you knew that was
11:20:03 18 Nicola Gobbo, didn't you?---Specifically that 3838 number,
11:20:08 19 yes.

11:20:08 20
11:20:08 21 Yes, you did?---Yes.

11:20:10 22
11:20:10 23 No further questions.

11:20:11 24
11:20:11 25 COMMISSIONER: Thank you. Thanks very much, Mr Kelly. You
11:20:16 26 will be needed again at the Commission at some point down
11:20:18 27 the track. We don't quite know when that will be. We'll
11:20:22 28 try and arrange it at a time that's convenient to
11:20:24 29 you?---Thank you, Commissioner.

11:20:25 30
11:20:25 31 You're free to go for the time being. Thanks very much,
11:20:28 32 Mr Kelly?---Thank you.

11:20:29 33
34 (Witness excused.)

35
11:20:30 36 <(THE WITNESS WITHDREW)

11:20:31 37
11:20:31 38 COMMISSIONER: The next witness will be?

11:20:33 39
11:20:34 40 MR WINNEKE: The next witness will be Mr Trichias, who's
11:20:36 41 given evidence previously.

11:20:38 42
11:20:38 43 COMMISSIONER: Yes.

11:20:38 44
11:20:39 45 MR WINNEKE: But before we call Mr Trichias, it might be an
11:20:41 46 appropriate time to have a short break, if we could do
11:20:44 47 that.

11:20:44 1
11:20:45 2 COMMISSIONER: Sure. Will we be resuming in open hearing?
11:20:49 3
11:20:50 4 MR WINNEKE: I think initially in open hearing, although a
11:20:54 5 significant amount of the matters that we will need to
11:20:56 6 speak to Mr Trichias about may have a number of
11:21:00 7 sensitivities, which might mean that we will need to
11:21:00 8 consider whether the hearing is fully open - I suspect not
11:21:04 9 - but the extent to which people may or may not be
11:21:13 10 permitted to be present.
11
12 COMMISSIONER: It's a convenient time for a break in any
13 case, so we'll have a 10-minute adjournment.
14
15 (Short adjournment.)
16
12:00:31 17 COMMISSIONER: Yes, Mr Winneke.
12:00:32 18
12:00:33 19 MR WINNEKE: Commissioner, we're ready to proceed with
12:00:34 20 Mr Trichias. Just before I ask him to enter the witness
12:00:38 21 box, there are a couple of matters that need to be dealt
12:00:41 22 with first. There's an appearance, which is a new
12:00:47 23 appearance. Dr Gumbleton seeks leave to appear, as I
12:00:50 24 understand it, on behalf of Mr Goussis.
12:00:53 25
26 COMMISSIONER: Yes.
27
12:00:54 28 DR GUMBLETON: I seek leave, Your Honour. Thank you for
12:00:55 29 that introduction, Mr Winneke. May it please the
12:00:57 30 Commission. I seek leave to appear on behalf of an
12:01:01 31 affected person, his name is Angelos Goussis.
12:01:05 32
12:01:05 33 COMMISSIONER: Yes.
12:01:06 34
12:01:07 35 DR GUMBLETON: He was the subject of Mr Trichias'
12:01:10 36 investigation as the lead investigator and informant in a
12:01:14 37 murder investigation concerning Lewis Moran. He was put to
12:01:19 38 trial in respect of that investigation and ultimately
12:01:24 39 convicted in May of 2008. We have previously filed with
12:01:30 40 the Commission an outline of submissions on his behalf, as
12:01:37 41 well as a written application seeking leave to appear.
12:01:41 42 Last night, at a fairly late time, Mr Winneke was good
12:01:46 43 enough to contact those representing Mr Goussis, to advise
12:01:50 44 that Mr Trichias would be called to be a witness here today
12:01:55 45 and there are matters that we may seek to put to him in
12:01:58 46 cross-examination concerning the handling of a registered
12:02:03 47 informer. I understand that informer is known as [REDACTED]

12:02:06 1
12:02:09 2
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12:02:11 4
12:02:15 5
12:02:20 6
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12:02:29 8
12:02:35 9
12:02:45 10
12:02:47 11
12:02:47 12
12:02:51 13
12:02:55 14
12:02:58 15
12:03:04 16
12:03:07 17
12:03:11 18
12:03:16 19
12:03:21 20
12:03:26 21
12:03:30 22
12:03:33 23
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12:03:56 34
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12:04:05 38
12:04:05 39
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12:04:07 41
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12:04:09 43
12:04:11 44
12:04:14 45
12:04:15 46
12:04:15 47

[REDACTED] in these proceedings.

MR HANNEBERY: [REDACTED]

MR WINNEKE: Commissioner, I might be able to short-circuit this. I've had discussions, as Dr Gumbleton indicates, with him about it. As far as counsel assisting is concerned, leave to appear is not opposed. As to whether or not it's necessary for Dr Gumbleton to put questions to Mr Trichias, again, that's not opposed, although, as I indicated yesterday in relation to the submissions that have been made by the State of Victoria, it's expected that a significant amount of these matters - a number of the matters that Dr Gumbleton's client's concerned about we'll deal with. Now, if there are matters that are not dealt with and so long as they relate to the Terms of Reference, limited cross-examination certainly would not be objected to as far as counsel assisting is concerned.

COMMISSIONER: We can deal with that. It seems almost certain that we'll have to go into closed hearing before too long. We can deal with that when we're in closed hearing.

MR WINNEKE: Yes. But the point that I make is - - -

COMMISSIONER: No-one has any objection to Dr Gumbleton being given leave to appear for Mr Goussis at this stage, do they?

MR HANNEBERY: No.

COMMISSIONER: No.

MR HANNEBERY: There are questions, when we get to the closed hearing, about how closed that is and who's present, but it might be better, once we get to the closed hearing, to raise those issues then.

COMMISSIONER: To that point of the proceedings, yes. I

12:04:18 1 give you leave to appear, Dr Gumbleton, on behalf of
12:04:21 2 Mr Goussis.
12:04:22 3
12:04:22 4 DR GUMBLETON: May it please the Commission.
12:04:24 5
12:04:24 6 COMMISSIONER: The next witness.
12:04:25 7
12:04:26 8 MR WINNEKE: Mr Trichias, Commissioner.
12:04:30 9
12:04:30 10 COMMISSIONER: Yes. Go into the witness box, Mr Trichias.
12:04:32 11 I think you took an oath on the last occasion you gave
12:04:35 12 evidence.
13
12:04:36 14 MR TRICHIAS: Yes, Commissioner.
12:04:37 15
12:04:37 16 COMMISSIONER: So you're still on your former oath.
17
12:04:39 18 MR TRICHIAS: Thank you.
12:04:40 19
12:04:40 20 <PETER TRICHIAS, recalled:
12:04:45 21
12:04:46 22 MR WINNEKE: Thanks, Mr Trichias. You are a Detective
12:04:48 23 Senior Sergeant, you're assigned to the Homicide
12:04:50 24 Squad?---That's correct.
12:04:50 25
12:04:51 26 You are, obviously, a very experienced investigator, you've
12:04:54 27 been associated with the investigation of murders for many
12:04:57 28 years?---Yes, that's correct.
12:04:58 29
12:04:58 30 And also you've been associated with the investigation of
12:05:05 31 fairly high-profile murders and murders which were looked
12:05:09 32 into by a number of organisations, the Homicide Squad and
12:05:13 33 Purana, back in 2002, 3, 4, 5 and so forth?---That's
12:05:19 34 correct, yes.
12:05:19 35
12:05:21 36 You made a statement initially - in fact, you've made a
12:05:26 37 couple of statements - initially on 27 March 2019 and then
12:05:32 38 you made a further statement on 13 May 2019 and, as I
12:05:39 39 understand it, you've now made a third statement?---That's
12:05:44 40 correct.
12:05:44 41
12:05:44 42 And we have a number of different versions of that
12:05:47 43 statement, Commissioner, but I wonder if we could firstly
12:05:57 44 ask Mr Trichias if you have an unredacted version of the
12:06:02 45 statement there?---I've got a redacted version here.
12:06:04 46
12:06:05 47 You've got a redacted version?---That's correct.

12:06:07 1
12:06:07 2 All right. The contents of that redacted statement, are
12:06:16 3 they true and correct?---Yes, they are.
12:06:17 4
12:06:22 5 MR HANNEBERY: I think there are a couple of corrections
12:06:23 6 that need to be made.
12:06:24 7
12:06:25 8 MR WINNEKE: If there are corrections, can you identify
12:06:26 9 those and can they be done in public or are they - -
12:06:29 10 -?---They can be done in public. It's just a typo in
12:06:34 11 paragraph 13. The year should be 2007, not 2017.
12:06:37 12
12:06:38 13 Yes.
12:06:39 14
12:06:39 15 MR HANNEBERY: I think I might help out with the next
12:06:41 16 correction.
12:06:42 17
12:06:42 18 COMMISSIONER: Yes, Mr Hannebery.
12:06:44 19
12:06:44 20 MR HANNEBERY: Mr Trichias, is it also the case that at
12:06:46 21 the bottom of - after paragraph 16, in the footnote
12:06:51 22 there?---Yes.
12:06:52 23
12:06:52 24 Where it says "insert document ID", it should say
12:07:03 25 "VPL.0005.0131.001"?---That's correct.
12:07:12 26
12:07:12 27 Thank you.
12:07:12 28
12:07:13 29 COMMISSIONER: That's it? Thanks, Mr Hannebery. Yes,
12:07:16 30 Mr Winneke.
12:07:16 31
12:07:17 32 MR WINNEKE: With those alterations, is the statement true
12:07:20 33 and correct?---Yes, it is.
12:07:20 34
12:07:21 35 I tender the redacted statement, Commissioner.
12:07:24 36
12:07:25 37 #EXHIBIT RC239 - Statement of Trichias.
12:07:30 38
12:07:30 39 COMMISSIONER: The date of the statement is?
12:07:34 40
12:07:35 41 MR WINNEKE: 17 June 2019.
12:07:37 42
12:07:37 43 COMMISSIONER: Thank you.
12:07:44 44
12:07:45 45 MR WINNEKE: In due course, Commissioner, if we could
12:07:47 46 obtain an unredacted version of that statement and I'll
12:07:51 47 tender that as a confidential exhibit.

12:07:54 1
12:07:54 2 COMMISSIONER: So this redacted statement isn't in a form
12:07:57 3 that can be published, is it?
4
12:07:59 5 MR HANNEBERY: No, it's not.
12:08:00 6
12:08:00 7 COMMISSIONER: Do we need an unredacted statement? What we
12:08:04 8 probably will need is a statement that can be published.
12:08:09 9
12:08:09 10 MR WINNEKE: I think there needs to be two more statements.
12:08:12 11 One is the unredacted statement and one for the purposes of
12:08:15 12 the Commission and it, obviously, needs to be a
12:08:17 13 confidential exhibit. The other one is the statement which
12:08:20 14 is redacted, to the extent that it can be published on the
12:08:24 15 Commission's website, for what that's worth.
12:08:29 16
12:08:30 17 COMMISSIONER: Does that sound right, Mr Hannebery?
18
12:08:32 19 MR HANNEBERY: Yes, it does.
12:08:33 20
12:08:33 21 COMMISSIONER: So the unredacted statement yet to be
12:08:35 22 produced will be 239A and that will be confidential and to
12:08:43 23 be placed in an envelope not to be opened without an order
12:08:45 24 by me?
12:08:46 25
12:08:47 26 MR WINNEKE: I think we've had this discussion before. I
12:08:49 27 don't know whether it needs to be not to be opened except
12:08:52 28 by order. If the order is that it's in an envelope and
12:08:56 29 it's a confidential exhibit to be used for the purposes of
12:09:00 30 the Royal Commission only, that would probably be
12:09:03 31 sufficient. I can't recall the exact words that you used
12:09:06 32 previously, Commissioner.
12:09:07 33
12:09:08 34 MR HANNEBERY: Can I say I understand there's one further
12:09:10 35 redaction, I'm instructed, that is sought that isn't
12:09:13 36 currently marked up on the redacted version that's before
12:09:16 37 the witness, so perhaps before it gets published, we can
12:09:20 38 have a discussion.
12:09:21 39
12:09:21 40 MR WINNEKE: We can do that, but it's not going to be
12:09:23 41 published in any event. If Mr Trichias can look at the
12:09:27 42 unredacted version of the statement, or at least it's got
12:09:29 43 shading on it.
12:09:30 44
12:09:30 45 COMMISSIONER: Sorry, do we have the unredacted?
12:09:34 46
12:09:34 47 MR WINNEKE: We do, we do.

12:09:36 1
12:09:37 2 COMMISSIONER: So that's A. What we're calling the
12:09:40 3 redacted statement, which is the one the witness has with
12:09:42 4 him, is 239B, is that right? Then there's going to be a
12:09:47 5 statement for publication, which will be 239C.
12:09:51 6
10:51:11 7 #EXHIBIT RC239B - Redacted statement.
8
10:51:11 9 #EXHIBIT RC239C - Statement for publication.
10
12:09:51 11 MR WINNEKE: If it please the Commission. The document
12:09:53 12 you've got there, I think it's got some shading on it?---It
12:09:57 13 does.
12:09:57 14
12:09:57 15 But nonetheless, every word can be read and that's, in
12:10:01 16 effect, the pure statement of yours dated 17 June of this
12:10:04 17 year; is that right?---Yes, that's correct.
12:10:05 18
12:10:06 19 That's been tendered.
12:10:07 20
12:10:08 21 COMMISSIONER: Can I make it plain. 239A will be placed in
12:10:11 22 a sealed envelope.
12:10:16 23
12:10:20 24 MR WINNEKE: That statement, Mr Trichias, concerns your
12:10:25 25 involvement in and your awareness of Ms Gobbo's dealings
12:10:30 26 with Victoria Police after 2005 and it deals with other
12:10:39 27 questions that you were asked to deal with in a letter that
12:10:41 28 was sent to you dated 20 March 2019?---That's correct.
12:10:45 29
12:10:48 30 You've had access to diaries, I take it, to make the
12:10:52 31 statement?---Yes, I have.
12:10:53 32
12:10:57 33 I think we've got some diaries in court. I wonder if the
12:11:00 34 diaries can be shown to Mr Trichias?---Yes, they're my
12:11:17 35 diaries.
12:11:17 36
12:11:18 37 Are they the diaries that you refer to in your statement -
12:11:20 38 - -?---They are.
12:11:21 39
12:11:21 40 - - - that you looked at in order to make your
12:11:23 41 statement?---Yes.
42
12:11:24 43 There seem to be an awful lot of stickers and tabs in those
12:11:28 44 diaries. Have those stickers and tabs been put on by you
12:11:32 45 for the purposes of this statement or has that occurred
12:11:34 46 over the course of years because you've had a number of
12:11:36 47 court proceedings which involve some people who we're going

12:11:41 1 to deal with in due course?---A bit of both.
12:11:43 2
12:11:43 3 A bit of both?---A bit of both.
12:11:45 4
12:11:46 5 Have you looked carefully through those diaries - - -?---I
12:11:50 6 have.
12:11:50 7
12:11:50 8 - - - to find any reference at all that you can find of
12:11:54 9 Ms Gobbo?---Yes.
12:11:54 10
12:11:55 11 Now, obviously, your handwriting, most of which is pretty
12:11:56 12 good, you can read it pretty well?---Yes.
12:11:59 13
12:11:59 14 Do you think that the references that you've got in your
12:12:01 15 statement are all of those references to Ms Gobbo?---Yes.
12:12:04 16
12:12:07 17 You also talk about other holdings in your statement. What
12:12:10 18 does that mean? Some police officers use court books, day
12:12:18 19 books, diaries, log books, whatever. What other holdings
12:12:22 20 are you talking about?---Information reports, Interpose,
12:12:25 21 what's contained in our computer holdings, for example.
12:12:29 22
12:12:29 23 Yes?---That's what I'm referring to as in other holdings.
12:12:32 24
12:12:33 25 To what extent have you examined those materials, for
12:12:36 26 example information reports?---I would put - obviously,
12:12:39 27 there's a lot of information reports, but I would put a key
12:12:43 28 word in to search and I would see what would come back and
12:12:45 29 then I would search those documents and have a look at it.
12:12:48 30
12:12:48 31 The key word that you used, I take it, was "Gobbo", was
12:12:52 32 it?---That's right, "Nicola Gobbo" or "Gobbo" or "Nicola";
12:12:57 33 I'd do variants of the key word.
12:12:57 34
12:12:57 35 Admittedly, there may well be references or matters of
12:13:01 36 relevance where the name Gobbo isn't used, but - -
12:13:04 37 - ?---That's correct.
12:13:04 38
12:13:04 39 I take it - have you done searches which haven't used the
12:13:11 40 name "Gobbo" or "Nicola" or a combination?---No.
12:13:15 41
12:13:18 42 In terms of other handwritten documents, are there any of
12:13:25 43 those?---I got to a point where I - day books basically got
12:13:29 44 phased out. There's a notation in my diaries when it
12:13:33 45 occurred. Then it went straight from - it was day books
12:13:36 46 and diaries. Then they got phased out and it was purely
12:13:38 47 diaries. So my diaries, particularly the later stages,

12:13:41 1 that would be my only notes in relation to it.
12:13:44 2
12:13:44 3 Going back to 2005, I take it you were using day
12:13:48 4 books?---There's a date - there's a reference point - I'm
12:13:50 5 not too sure whether it's in this diary - but there's a
12:13:53 6 reference point around 2005 - I'm only going off memory
12:13:57 7 here - when day books were phased out.
12:14:01 8
12:14:01 9 Okay?---I haven't got the exact date with me at the moment,
12:14:04 10 but my memory tells me around 2005.
12:14:06 11
12:14:06 12 Does that mean that at that date you stopped using day
12:14:10 13 books and went to the diary?---Yes, everything went into
12:14:12 14 the diary, that's correct.
12:14:13 15
12:14:14 16 When you went about your business going out to prisons, if
12:14:18 17 you did, or speaking to potential witnesses and so forth,
12:14:21 18 you actually had that diary with you?---Yes, that's
12:14:24 19 correct. Then the information would be transferred onto an
12:14:27 20 information report which would be maintained.
12:14:28 21
12:14:29 22 That's the information report that you could access if you
12:14:31 23 go to the computer system, that's the Interpose system, is
12:14:35 24 it?---It used to be. Prior to Interpose it was a G drive
12:14:39 25 obviously, computer holdings, but then Interpose came into
12:14:44 26 effect and everything was kept on Interpose.
12:14:47 27
12:14:47 28 Those older information reports are now accessed through
12:14:51 29 Interpose?---Yes, they should be.
12:14:52 30
12:14:52 31 That's what you've done to see if you can make a statement
12:14:55 32 which is as fulsome as possible; is that right?---Yes.
12:15:00 33
12:15:02 34 In terms of the footnotes in your statement, in the
12:15:02 35 statement that we've got there was no reference to
12:15:04 36 those?---M'mm.
12:15:05 37
12:15:05 38 Did you footnote - when you make statements do you always
12:15:09 39 footnote them or how does that - - - ?---Do I normally?
12:15:11 40 Not normally, no.
12:15:12 41
12:15:12 42 How does that come to be in this statement, is that - -
12:15:15 43 -?---This is just for the lawyers, I compiled the
12:15:18 44 statement.
12:15:19 45
12:15:19 46 Had you made a statement yourself, you know, of your own
12:15:22 47 version before you went to see the lawyers at any

12:15:25 1 stage?---No.
12:15:26 2
12:15:26 3 Right. What about notes, did you make notes to assist your
12:15:30 4 recollection as you went through your various
12:15:33 5 holdings?---No, what I would do is I would go through my
12:15:37 6 diary, I would put a tab next to the notes that I've
12:15:40 7 identified. Then I would rely on that to compile my
12:15:43 8 statement.
12:15:43 9
12:15:43 10 All right, I follow that. In terms of refreshing your
12:15:49 11 recollection to make the statement did you printout any of
12:15:53 12 the holdings that you've referred to or information
12:15:56 13 reports, et cetera?---Yes, there was an information report
12:15:58 14 that I printed out, yes.
12:16:00 15
12:16:01 16 Is that the information report which is referred to and
12:16:04 17 footnoted in your statement?---Yes.
12:16:05 18
12:16:10 19 If I can go back to take you back to your early days in the
12:16:21 20 Purana Task Force?---M'mm.
12:16:23 21
12:16:24 22 You say that you started in the Task Force in about May of
12:16:29 23 2003; is that right?---That's correct. To take you back,
12:16:34 24 it actually - Purana first formed initially around about
12:16:38 25 October 2002.
12:16:39 26
12:16:40 27 October 2002?---I think so, yeah. That was on the back of
12:16:43 28 several homicides that led into Purana.
12:16:47 29
12:16:47 30 Which homicide was it which led to the - - - ?---There was
12:16:50 31 several. It wasn't just one, it was several.
12:16:53 32
12:16:53 33 Do you recall which ones they were?---It would have been
12:16:56 34 the murder of Dino Dibra, the murder of Paul Kallipolitis.
12:17:03 35
12:17:03 36 Yes?---They were the two main ones that I was aware of but
12:17:06 37 there were several others that occurred as well but I think
12:17:07 38 those two - - -
12:17:07 39
12:17:08 40 And then subsequently with the murders of Barbaro and
12:17:12 41 Moran?---Yes.
12:17:12 42
12:17:12 43 The Task Force was significantly beefed up?---That's
12:17:15 44 correct.
12:17:15 45
12:17:15 46 Because it was considered that there was an escalation and
12:17:18 47 it needed a significant degree of - greater resourcing to

12:17:22 1 deal with it?---That's correct.
12:17:23 2
12:17:24 3 Was that when you came on board?---I was there from day
12:17:26 4 one.
12:17:27 5
12:17:27 6 You were there from day one?---Yes.
12:17:29 7
12:17:29 8 Where were you prior to that?---At Homicide.
12:17:32 9
12:17:36 10 Can I ask you a couple of general questions about the
12:17:39 11 history of some of these murders? We know that Lewis Moran
12:17:48 12 was murdered on 31 March 2004?---Yes.
12:17:52 13
12:17:53 14 And Lewis Caine was murdered on 8 May 2004?---Yes.
12:17:58 15
12:18:02 16 Obviously there were investigations going on in relation to
12:18:06 17 those murders which led to the identification of at least a
12:18:13 18 couple of persons, now we might be getting into an area
12:18:16 19 where we might need to change the mode of hearing. I
12:18:18 20 notice my learned friend getting to his feet.
12:18:20 21
12:18:21 22 MR HANNEBERY: I think we're getting to a point where to
12:18:23 23 ask anything meaningful.
12:18:25 24
12:18:26 25 MR WINNEKE: I think I've gone about as far as I can.
12:18:28 26
12:18:28 27 COMMISSIONER: The reason we have to close the hearing is
12:18:30 28 because of non-publication orders and other legislative
12:18:35 29 provisions, is that correct?
12:18:38 30
12:18:39 31 MR WINNEKE: That's correct, Commissioner.
12:18:41 32
12:18:42 33 MR HANNEBERY: Non-publication.
12:18:44 34
12:18:44 35 MR WINNEKE: There are suppression orders in relation to a
12:18:46 36 number of people. Commissioner, there has been an
12:18:48 37 application in the Court of Appeal.
12:18:49 38
12:18:49 39 COMMISSIONER: Yes.
12:18:50 40
12:18:51 41 MR WINNEKE: In relation to a number of people. That
12:18:54 42 application has not been concluded. The Court of Appeal is
12:19:00 43 considering what to do about that.
12:19:01 44
12:19:02 45 COMMISSIONER: Yes.
12:19:02 46
12:19:02 47 MR WINNEKE: At the moment I think the position is we ought

12:19:05 1 be a bit cautious about the way - - -
12:19:06 2
12:19:07 3 COMMISSIONER: Can I just clarify then is it only because
12:19:09 4 of non-publication orders that we're closing - - -
12:19:12 5
12:19:12 6 MR HANNEBERY: I think I prefer to discuss that in - - -
12:19:14 7
12:19:15 8 COMMISSIONER: It might be wider though, is that the
12:19:16 9 position? It may be wider than non-publication?
10
12:19:21 11 MR HANNEBERY: It may well be, but I think I prefer to
12:19:24 12 confirm or deny those things in a closed - - -
12:19:26 13
12:19:26 14 COMMISSIONER: The reason I'm asking is because I'm
12:19:28 15 wondering whether I can just close the court, allow
12:19:32 16 accredited media to remain present and make a
12:19:36 17 non-publication order.
12:19:37 18
12:19:37 19 MR HANNEBERY: That's a discussion that will be the subject
12:19:39 20 of an application that I prefer to make in a closed
12:19:42 21 hearing.
12:19:42 22
12:19:43 23 COMMISSIONER: Well, I'll make it - for the moment then
12:19:45 24 I'll let the press stay with a non-publication order for
12:19:50 25 the moment.
12:19:51 26
12:19:51 27 MR HANNEBERY: Yes, perhaps when it's closed I'll make a
12:19:53 28 further application.
12:19:54 29
12:19:54 30 COMMISSIONER: I'm satisfied that under the Inquiries Act
12:19:56 31 it's necessary to close the hearing at this point to comply
12:19:59 32 with non-publication orders that have been made by courts.
12:20:04 33 So all people other than Commission legal and
12:20:11 34 administrative staff and the lawyers of those who have been
12:20:19 35 given leave to appear must now leave the court. The
12:20:26 36 streaming can continue for the moment to the media room,
12:20:29 37 but not to the website, and no-one can be in the media
12:20:35 38 room, other than accredited media. A copy of this order
12:20:42 39 will have to be placed on the hearing room door.
12:20:50 40
12:20:50 41 DR GUMBLETON: Commissioner, just because we're new faces,
12:20:54 42 can I just indicate the gentleman seated behind me is my
12:20:57 43 instructing solicitor, so there's no ambiguity about that.
12:21:01 44
12:21:01 45 COMMISSIONER: Thanks Dr Gumbleton.
12:21:03 46
47 (IN CAMERA HEARING FOLLOWS)

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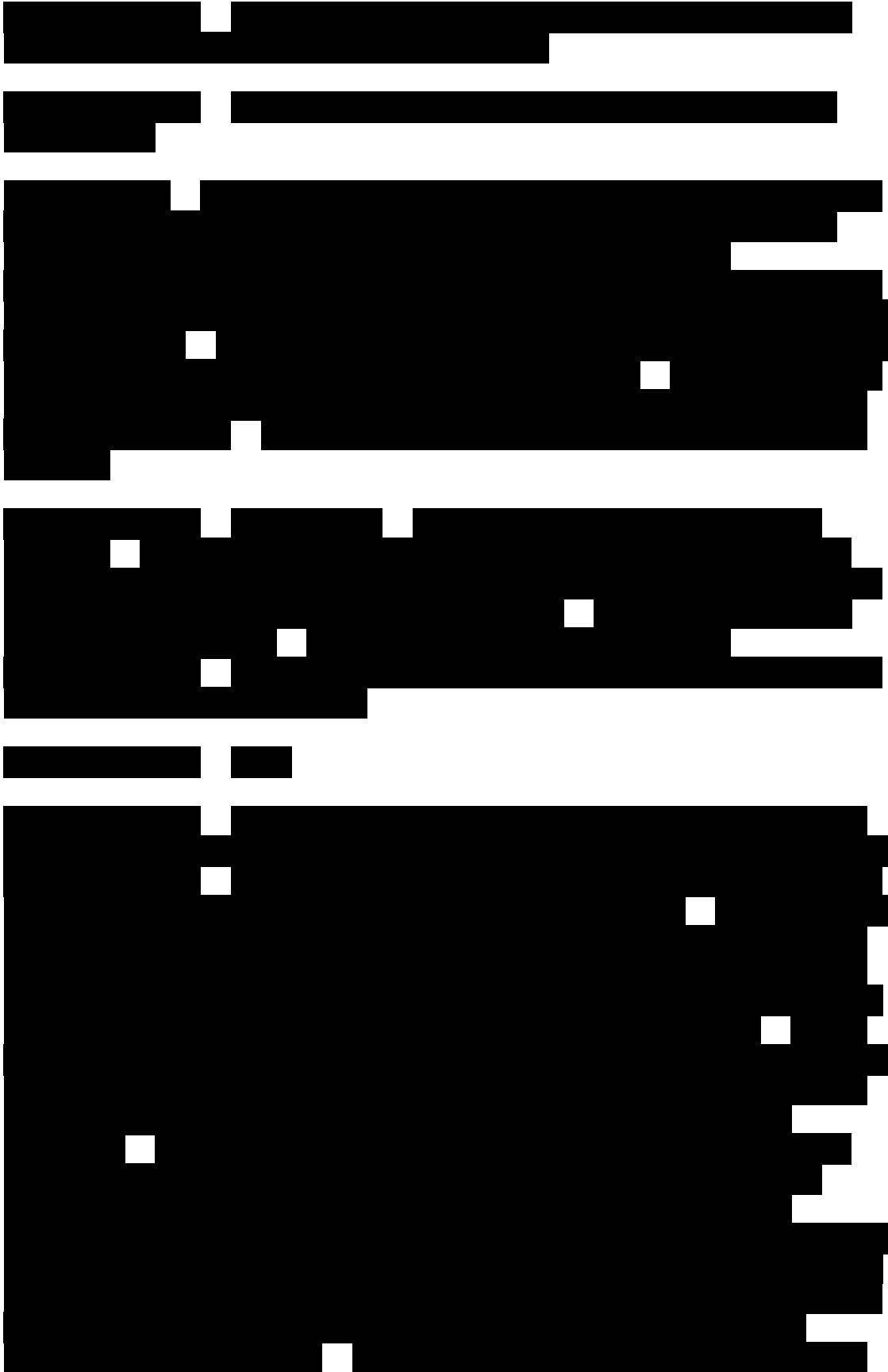
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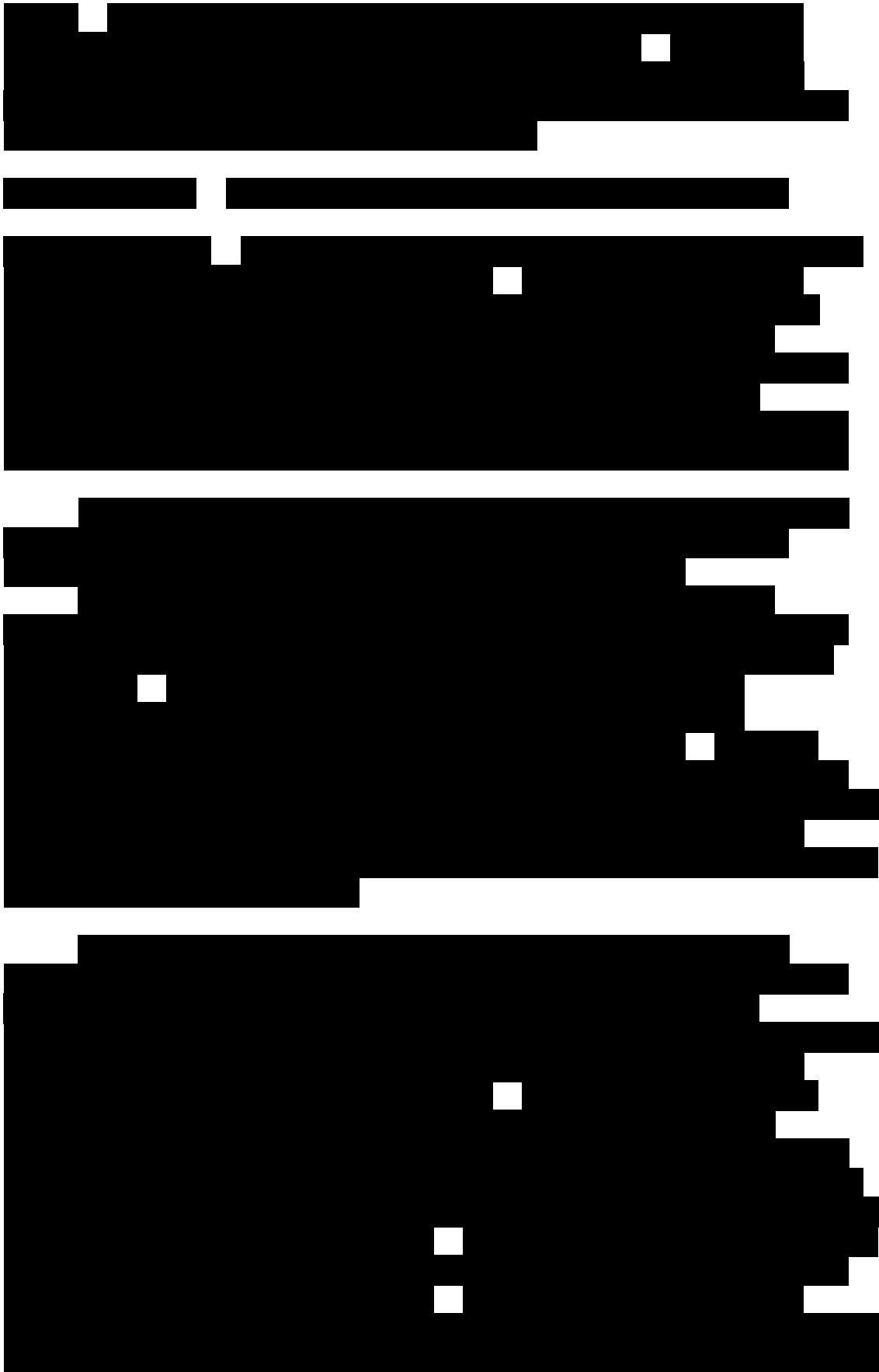
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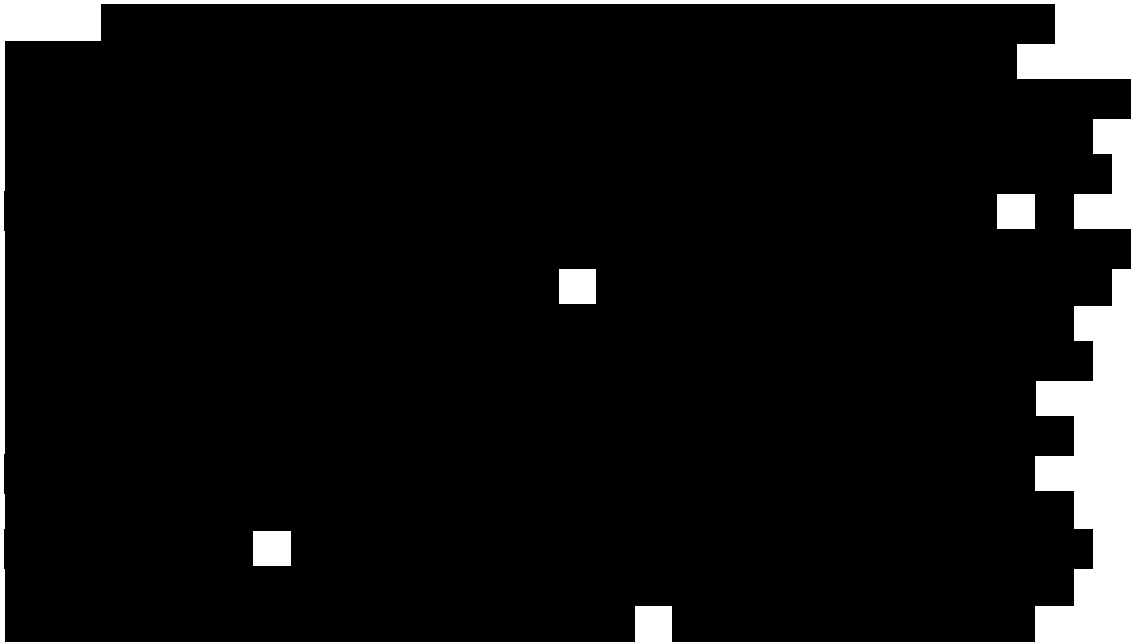
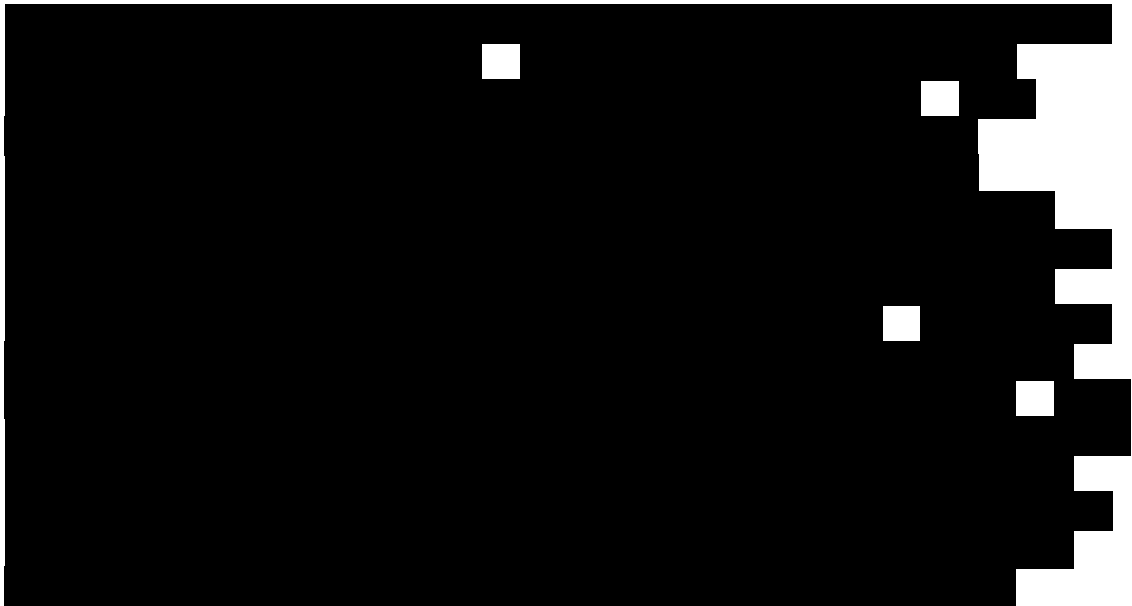
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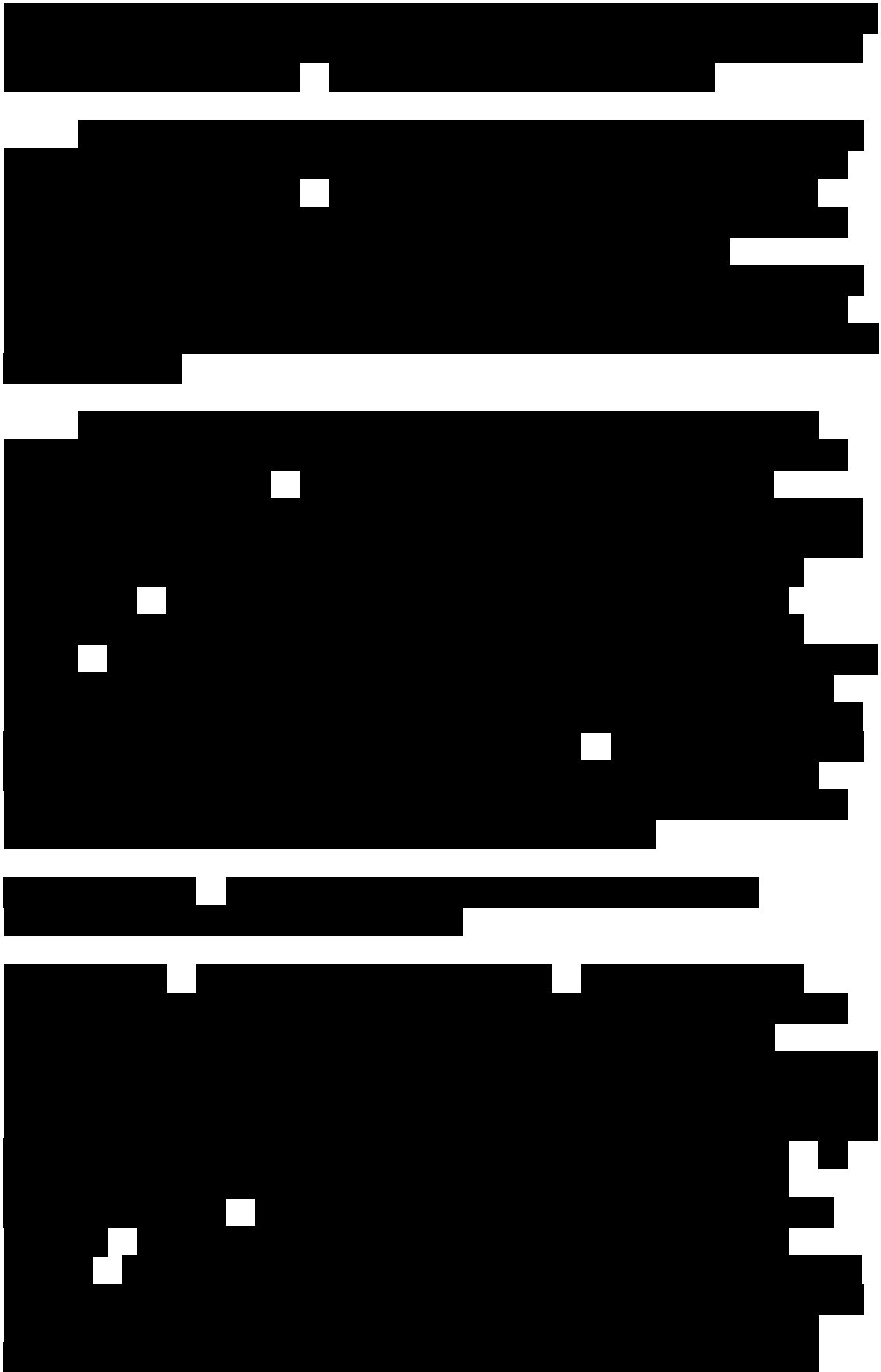
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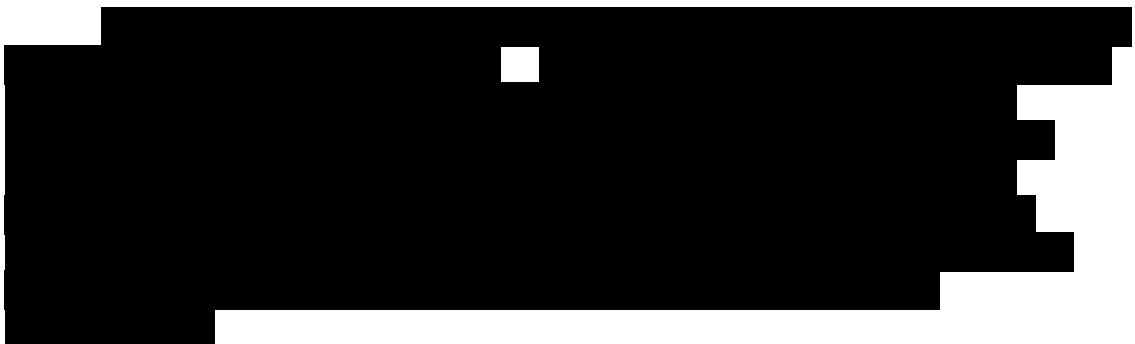
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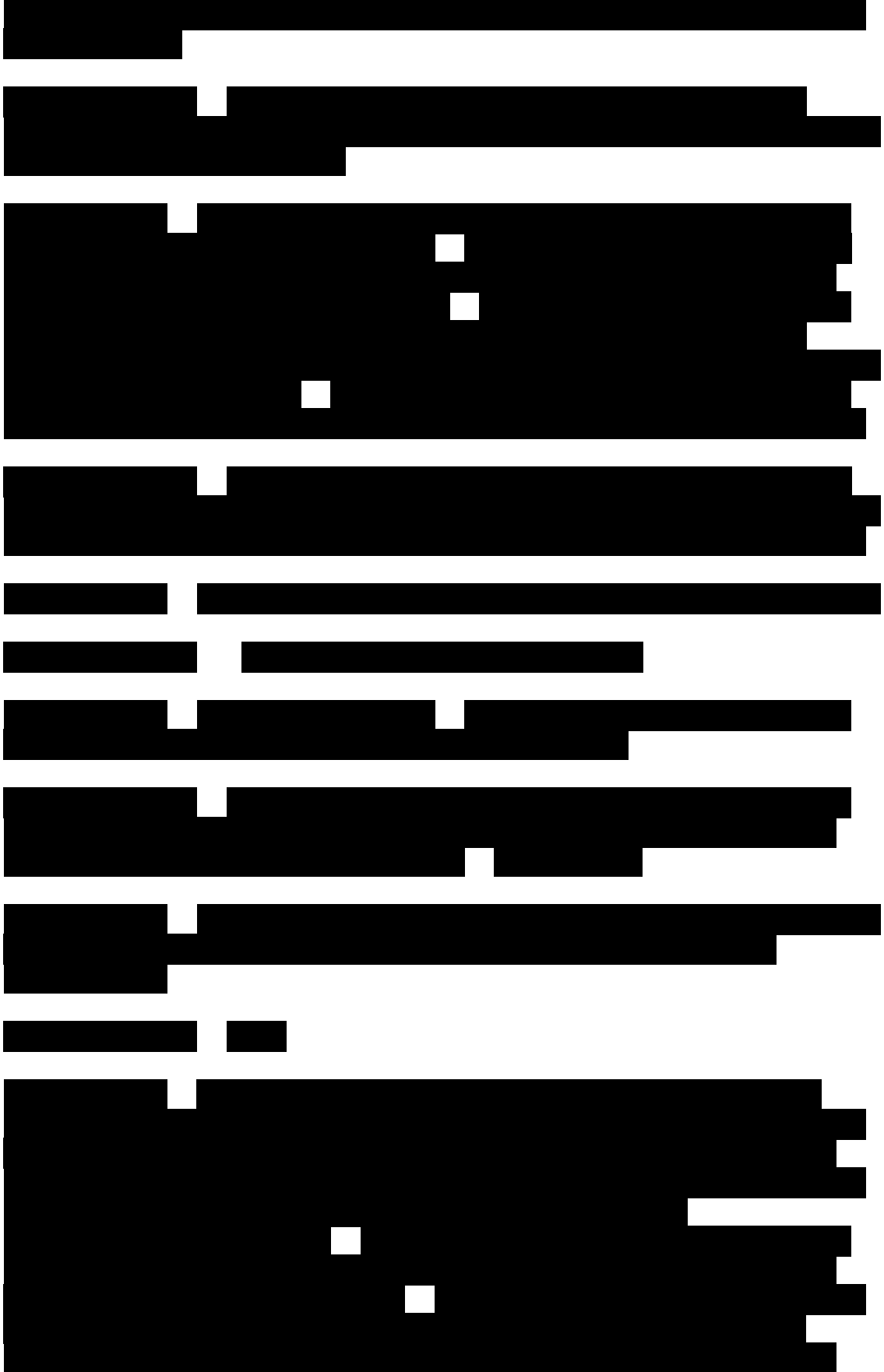
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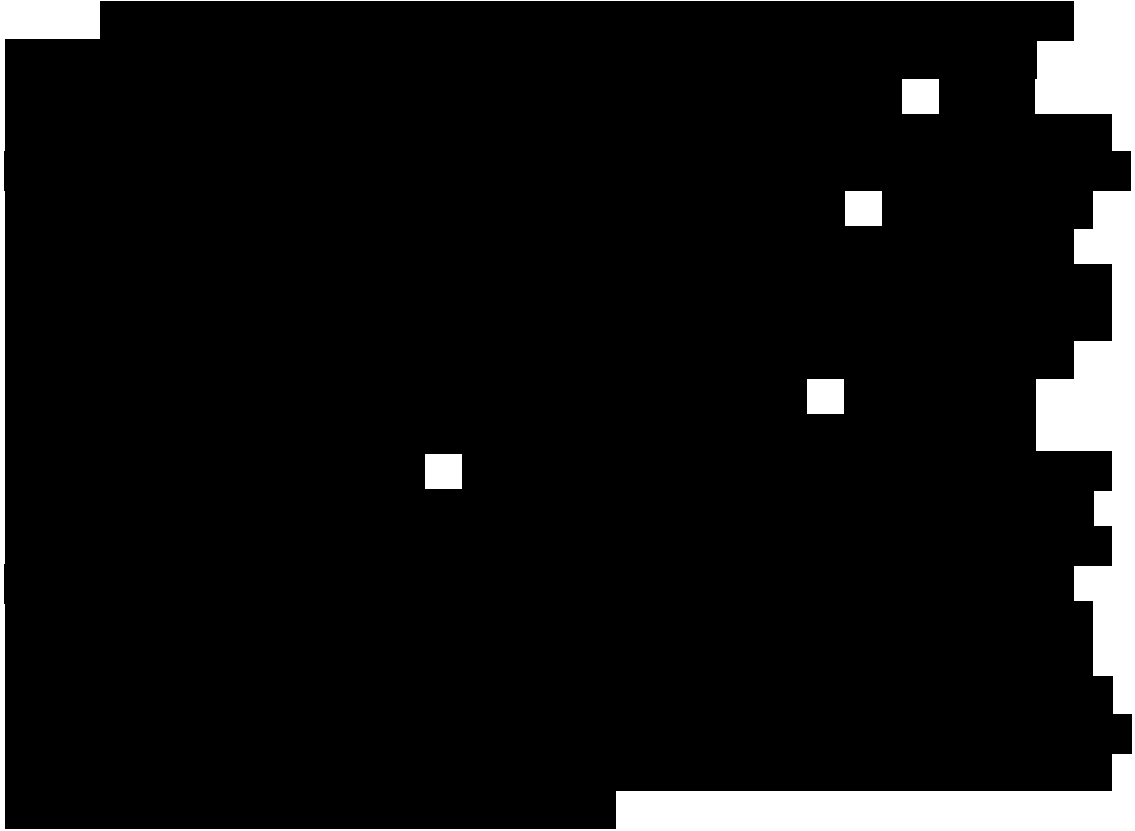
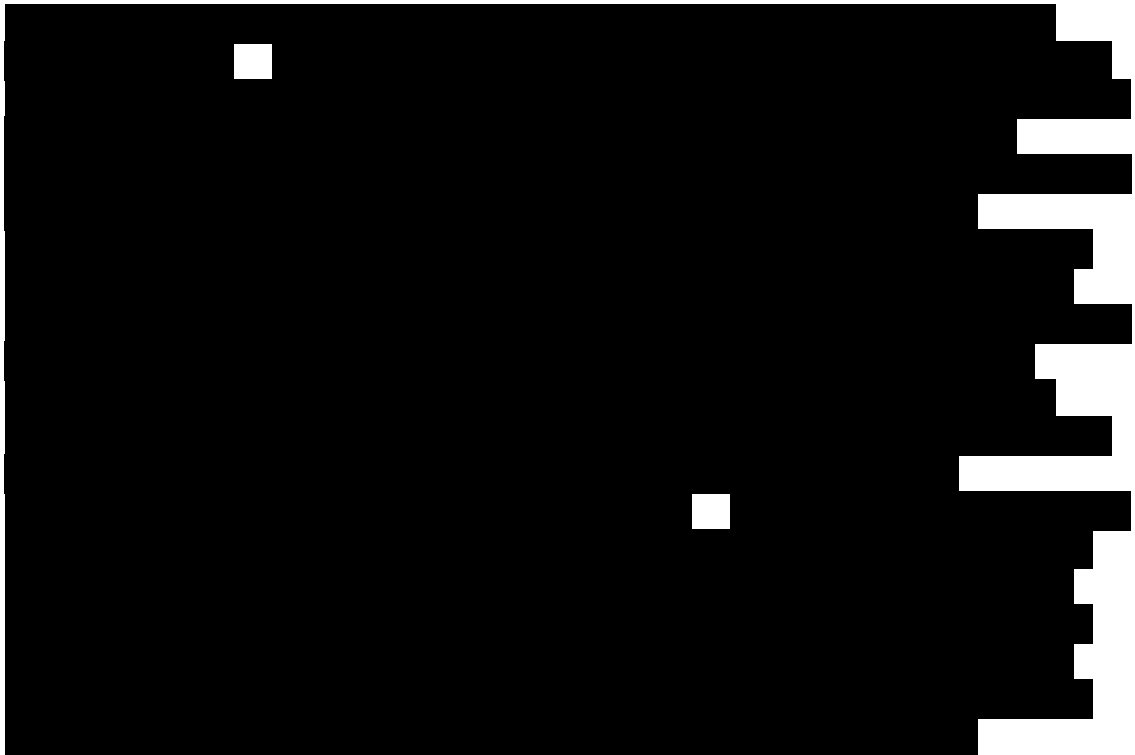
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ADJOURNED UNTIL FRIDAY 21 JUNE 2019