

ROYAL COMMISSION INTO THE MANAGEMENT
OF POLICE INFORMANTS

Held in Melbourne, Victoria

On Thursday, 28 March 2019

Led by Commissioner: The Honourable Margaret McMurdo AC

Also Present

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

11:34:53 1 amount of material, including Petra material, Petra
11:34:57 2 steering committee material. Are you aware of that?---No,
11:35:00 3 I'm not.
11:35:01 4
11:35:01 5 And you weren't told about that?---No, in preparation for
11:35:03 6 this I haven't been informed of that.
11:35:05 7
11:35:05 8 All right. It is understood that the VGS0 was involved,
11:35:17 9 Victorian Government Solicitor's Office was involved, are
11:35:21 10 you aware of that?---No, I'm not.
11:35:22 11
11:35:23 12 And so you aren't in a position to say whether or not any
11:35:27 13 advice was sought from the VGS0 in 2010?---That's correct.
11:35:31 14
11:35:34 15 Were you given any instructions - I withdraw that. You
11:35:39 16 don't know what instructions were given to the VGS0 because
11:35:43 17 you don't know about that interaction?---That's correct.
11:35:45 18
11:35:45 19 Okay. The following year Mr Dale was charged - just excuse
11:36:17 20 me. Can I ask you this: what I suggest to you is that -
11:36:25 21 perhaps I'll withdraw that and start again. What you say
11:36:28 22 going through your analysis of when the failures of
11:36:35 23 disclosure or these sorts of issues came about, you then
11:36:38 24 talk about the fact that Dale was charged on 28 January by
11:36:45 25 Detective Senior Sergeant Boris Buick, Victoria Police,
11:36:48 26 with charges arising out of the Australian Crime Commission
11:36:52 27 Act in which it was alleged that Mr Dale had told lies to
11:36:58 28 the ACC and at that stage he subpoenaed materials?---That's
11:37:01 29 correct.
11:37:01 30
11:37:02 31 And as a result of that there was an advice which you've
11:37:06 32 referred to before which we've identified as the advice of
11:37:10 33 Mr Maguire, the barrister, dated 4 October 2011, and you
11:37:16 34 say that really was the first time these problematic issues
11:37:21 35 came to light as far as you understand?---Yes, I believe
11:37:25 36 the advice provided by Mr Maguire had addressed a number of
11:37:32 37 issues regarding the issue of the subpoena.
11:37:35 38
11:37:35 39 Yes?---And that in that advice he raised an issue in
11:37:39 40 context of disclosure obligations.
11:37:42 41
11:37:44 42 Just excuse me. Was it your understanding that members of
11:38:20 43 the SDU, well prior to Mr Maguire drawing the attention of
11:38:27 44 Victoria Police to concerns about disclosure, had expressed
11:38:32 45 their view that there could well be considerable problems
11:38:39 46 involved with Ms Gobbo providing information in which she
11:38:42 47 was providing information as a legal practitioner?---Yes,

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

12:58:41 9
12:58:42 10 It's all very well I suppose to say looking back with the
12:58:45 11 benefit of hindsight those positions are apparent now. But
12:58:50 12 it would be reasonable to assume that those fundamental
12:58:54 13 concepts should have been apparent in 2005 as well,
12:58:58 14 wouldn't it? I mean these are fairly fundamental
12:59:01 15 propositions?---Listen I understand exactly what you're
12:59:04 16 saying. What is quite clear to me is, is that it wasn't
12:59:09 17 apparent to others or it doesn't appear to have been
12:59:12 18 apparent to others in the organisation at that time. I
12:59:15 19 wasn't in a role that was involved in that decision making.
12:59:22 20 As I am today, I can say that I am very conscious of these
12:59:27 21 issues and this type of process wouldn't be allowed to
12:59:32 22 occur in the structures, the governance, the oversight
12:59:37 23 model that we have in Victoria Police at the moment.

12:59:39 24
12:59:42 25 All right. I wonder if that's an appropriate time?

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

13:00:18 28
13:00:21 29 <(THE WITNESS WITHDREW)

13:00:22 30
13:00:22 31 LUNCHEON ADJOURNMENT

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

14:48:58 1 right?---Correct.
14:48:59 2
14:48:59 3 I understand now. Thank you.
14:49:00 4
14:49:03 5 MR WINNEKE: Is it your understanding that the Commonwealth
14:49:05 6 Director of Public Prosecutions has identified 72 cases in
14:49:08 7 total in which Ms Gobbo acted?---I'm not aware of that.
14:49:11 8
14:49:30 9 Just before I move from that topic can I ask you this, just
14:49:35 10 to be clear. You're not aware of how many cases that
14:49:41 11 Ms Gobbo acted for - sorry, in respect of the Commonwealth
14:49:47 12 it's not clear to you in how many cases she acted or
14:49:52 13 advised accused persons; is that right?---That may well be
14:49:57 14 detail that's known in Victoria Police.
14:49:59 15
14:49:59 16 Yes?---I don't know that detail.
14:50:00 17
14:50:01 18 I follow that?---But I'm happy to, as always, Mr Winneke,
14:50:04 19 I'm happy to take that as a question, find out the answer
14:50:07 20 and provide that answer back of what Victoria Police knows
14:50:10 21 in our joint work with the Commonwealth Director.
14:50:13 22
14:50:13 23 Yes?---Of the exact number.
14:50:15 24
14:50:15 25 All right. In terms of the State, I take it the same
14:50:19 26 applies there. We understand that Ms Gobbo acted for
14:50:26 27 600-odd people in the State jurisdiction. I assume that
14:50:28 28 there hasn't been to date an examination of anywhere near
14:50:35 29 all of those cases?---No, no, absolutely not. The work is,
14:50:38 30 as you know, is extensive. I have heard the figure of 600
14:50:45 31 bandied around. I don't know that that is accurate but
14:50:48 32 certainly the work is ongoing.
14:50:50 33
14:50:50 34 Yes?---It's extensive and it will take some time to
14:50:54 35 complete that work.
14:50:55 36
14:50:55 37 All right. Can I ask you - well I asked you yesterday when
14:51:01 38 the disclosure process started, that is when was a team put
14:51:06 39 together to commence analysing each case to determine
14:51:12 40 whether or not disclosure should be made?---M'mm.
14:51:15 41
14:51:16 42 You mentioned yesterday that counsel was briefed at some
14:51:19 43 stage, you believe, subsequent to the commencement of the
14:51:25 44 Royal Commission. Now, do you know now when counsel was
14:51:30 45 engaged?---No, I haven't asked that question but as per my
14:51:34 46 response yesterday, Task Force Landow is set up to do that
14:51:38 47 particular work, as well as the response to the Royal

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

15:33:59 1 but they both were called that name.
15:34:01 2
15:34:01 3 What I want to suggest to you is that there were overseas
15:34:05 4 trips, that Jones went to America and Canada and Maclean
15:34:10 5 went to England and Ireland?---That could well be right.
15:34:14 6 Part of my memory from this is the Kellam report refers to
15:34:18 7 a number of overseas trips and obviously names a couple of
15:34:22 8 people in the context of those overseas trips which is
15:34:27 9 where I think my memory comes from.
15:34:29 10
15:34:30 11 Again, just a small point. On paragraph 3.116 the
15:34:32 12 investigations in relation to the relationships that
15:34:36 13 Ms Gobbo may have had with police officers. It is not
15:34:40 14 suggested in any way at any time that any members of the
15:34:45 15 SDU had an intimate or sexual relationship with her?---I am
15:34:49 16 aware of no such allegation.
15:34:50 17
15:34:51 18 The allegations as such relate to other police officers and
15:34:55 19 are subject to investigation?---That's correct.
15:34:57 20
15:34:57 21 Can I take you to the SDU generally. That unit was set up
15:35:04 22 after a pilot operation in 2004 to deal with an issue the
15:35:09 23 Victoria Police had confronted in relation to the way in
15:35:11 24 which they were handling informers?---Yes, that's correct.
15:35:16 25
15:35:17 26 To be fair, the police were really almost haemorrhaging at
15:35:20 27 that stage with allegations about members of the Drug Squad
15:35:25 28 and informers in fact being killed?---That's correct.
15:35:28 29
15:35:30 30 Prior to the formation of the SDU or whatever the
15:35:35 31 predecessor's pilot unit was known as, there had been the
15:35:39 32 old-fashioned that we've heard a bit about from 95 and 99
15:35:43 33 where names were effectively put in envelopes and fairly,
15:35:48 34 an informer was managed by the investigator
15:35:51 35 usually?---Correct.
15:35:52 36
15:35:53 37 So it was in that regard that Mr Jones was tasked to look
15:36:00 38 at improving the way in which informers were dealt
15:36:05 39 with?---Correct.
15:36:05 40
15:36:05 41 Now, the unit that was - he was effectively tasked to look
15:36:10 42 at alternatives, write papers and put together a pilot,
15:36:15 43 which he did?---That's the way I understand it, yes.
15:36:17 44
15:36:17 45 And thereafter, after that pilot was evaluated the SDU came
15:36:21 46 into existence?---That's correct.
15:36:23 47

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

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

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

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

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

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

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

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

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

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

15:55:23 36 MR CHETTLE: I do and I certainly don't want to breach any
15:55:25 37 orders. I can deal with the parts that are dealt with in
15:55:31 38 Justice Ginnane's judgment in general in any event.
15:55:34 39

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

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

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

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

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

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

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

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

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

[REDACTED]

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

ADJOURNED UNTIL FRIDAY 29 MARCH 2019