

ROYAL COMMISSION INTO THE MANAGEMENT
OF POLICE INFORMANTS

Held in Melbourne, Victoria

On Thursday, 19 September 2019

Led by Commissioner: The Honourable Margaret McMurdo AC

Also Present

Counsel Assisting:	Mr C. Winneke QC Mr A. Woods Ms M. Tittensor
Counsel for Victoria Police	Mr S. Holt QC Ms K. Argiropoulos
Counsel for State of Victoria	Mr C. McDermott
Counsel for Nicola Gobbo	Mr P. Collinson QC Mr R. Nathwani
Counsel for DPP/SPP	Ms K. O'Gorman
Counsel for CDPP	Ms R. Avis
Counsel for Police Handlers	Mr G. Chettle
Counsel for AFP	Ms I. Minnett

09:38:54 1 COMMISSIONER: Yes, thank you.
09:38:58 2
09:38:58 3 <MARK PORTER, recalled:
09:39:01 4
09:39:01 5 COMMISSIONER: Thanks Mr Porter, you're on your former oath
09:39:04 6 of course.
09:39:05 7
09:39:05 8 MS TITTENSOR: When we broke last night, Mr Porter, I was
09:39:09 9 about to ask you about some notes that Mr Calishaw took in
09:39:15 10 2005. I might just put those up on the screen so you can
09:39:17 11 have a look at them. VPL.0100.0001.5942.
09:39:57 12
09:39:57 13 COMMISSIONER: While we're doing that I'll note the
09:40:00 14 appearances are the same for yesterday, save that
09:40:04 15 Ms Sheales and later Ms Avis will be appearing for the
09:40:10 16 Commonwealth DPP.
09:40:14 17
09:40:14 18 MS TITTENSOR: If we can go to 5944 please. I think
09:40:23 19 Mr Calishaw was operating a day book at this stage, so
09:40:27 20 these are notes from his day book. And accepting that you
09:40:31 21 weren't present at the time, Mr Porter, at the unit, you
09:40:35 22 weren't there for a number of months hence, but this is
09:40:39 23 around the time that Ms Gobbo had been, or between the time
09:40:43 24 that she'd been spoken to first of all by the SDU and the
09:40:50 25 risk assessment and at some period within that or at the
09:40:54 26 end of that she was registered. So on this day,
09:40:59 27 Mr Calishaw meets, this is Wednesday 26 October at 1 pm, he
09:41:04 28 meets with Mr Smith, we know him as. Sorry, Mr White,
09:41:11 29 sorry. And receives a brief in relation to 3838, Ms Gobbo.
09:41:18 30 They discuss super grass sources, the need to know at the
09:41:23 31 IMU and agreed to have Paul write a policy for the same, do
09:41:29 32 you see that?---Yes.
09:41:30 33
09:41:30 34 Was there a particular policy at the IMU or the HSMU as it
09:41:37 35 became known that related to super grasses?---Not that I'm
09:41:41 36 aware of.
09:41:42 37
09:41:46 38 Is it the case - there's some suggestion in some later
09:41:51 39 material which I might come to that Ms Gobbo's registration
09:41:54 40 as a super grass was conducted differently than other
09:42:04 41 informers?---I'm not personally aware of that.
09:42:06 42
09:42:08 43 Was there any concept of a super grass within the
09:42:18 44 HSMU?---No. My recollection is that there were [REDACTED] of
09:42:22 45 human sources and high risk human sources were known as
09:42:28 46 [REDACTED].
09:42:29 47

09:42:30 1 Were they only within the SDU that you're talking
09:42:40 2 about?---I can't say with absolute certainty but I believe
09:42:43 3 so, yes.
09:42:44 4
09:42:44 5 Were all informers that the SDU dealt with [REDACTED] or were
09:42:48 6 some [REDACTED] or [REDACTED]?---I would expect that most, if not
09:42:56 7 all, would be [REDACTED]
09:42:57 8
09:42:58 9 That's because of the high value, high risk associated with
09:43:01 10 them?---Correct.
09:43:02 11
09:43:02 12 It seems as though, at least in relation to this entry and
09:43:08 13 a further one that I've just referred to, that there was
09:43:11 14 some extra risk, perhaps beyond what we might call [REDACTED],
09:43:16 15 as to super grass and that there might have been some
09:43:20 16 differentiation of her treatment within the HSMU?---At this
09:43:30 17 late stage I can never recall the use of the term super
09:43:36 18 grass in any, in any of the human source business. I mean
09:43:44 19 it was, it was a term that I knew that was used by the
09:43:48 20 media, but I cannot recall the use of the term super grass
09:43:52 21 at all.
09:43:53 22
09:43:53 23 Were her files managed differently within HSMU?---No, they
09:44:01 24 were recorded on the secure system.
09:44:04 25
09:44:05 26 Were they recorded in the same drive or on a different
09:44:08 27 drive?---So I can't recall the chronology of how the stand
09:44:21 28 alone system was developed at this time, but my
09:44:27 29 understanding or my recollection is that when I went into
09:44:30 30 the HSMU after arriving at the State Intelligence Division,
09:44:36 31 the records for this source were on the system with all of
09:44:39 32 the other records.
09:44:41 33
09:44:45 34 In terms of your own knowledge of Ms Gobbo, you began at
09:44:50 35 the SID in March of 2006. Presumably at that stage you
09:44:54 36 were aware of her status as a criminal defence
09:44:57 37 barrister?---Yes.
09:44:57 38
09:44:58 39 You would have known of her perhaps not through any
09:45:03 40 personal dealings but through at least a media profile that
09:45:08 41 she had?---I believe so, yes.
09:45:10 42
09:45:10 43 And you were aware generally that she would represent some
09:45:14 44 pretty high profile gangland figures?---Yes.
09:45:17 45
09:45:18 46 In particular had an association in that regard with Tony
09:45:22 47 Mokbel?---I think at that time I wouldn't have been sure

09:45:29 1 who she often represented but I knew it was people of
09:45:36 2 Mokbel's ilk.
09:45:38 3
09:45:39 4 Carl Williams?---Possibly.
09:45:40 5
09:45:41 6 Certainly by the end of the March period when you arrived
09:45:46 7 you would have become well aware of her association with
09:45:49 8 Tony Mokbel because he absconded before the end of his
09:45:52 9 trial. There was quite some publicity associated with
09:45:57 10 that?---I believe I would have become more aware that she
09:46:01 11 was, she worked closely with Mokbel, yes.
09:46:04 12
09:46:05 13 Given that he, you recall that period of time when Tony
09:46:09 14 Mokbel absconded from his trial?---Sorry, what date was
09:46:15 15 that, that he absconded?
09:46:18 16
09:46:19 17 20 March 2006. Very shortly after your arrival at the
09:46:29 18 SID?---So it probably took me a little bit of time to come
09:46:33 19 up to speed with that. When he absconded I probably wasn't
09:46:38 20 aware that she was that closely associated with him.
09:46:43 21
09:46:43 22 She was representing him at that trial?---Possibly.
09:46:47 23
09:46:47 24 And it was during that month that you would have become
09:46:49 25 aware that she was a human source?---Yes, but I was not - I
09:46:54 26 didn't follow the Task Force Purana prosecutions.
09:47:00 27
09:47:03 28 On 30 March you attended at the SDU with Dean McWhirter
09:47:09 29 regarding a police corruption issue, is that right?---Yes.
09:47:12 30
09:47:13 31 The SML, source management log, for that date reads, so
09:47:19 32 presumably this is an entry by the controller, Mr White,
09:47:24 33 "Meet with Superintendent Porter and brief re 3838
09:47:27 34 generally and Waters' issue. Agreed CCR is to be conducted
09:47:33 35 on Waters' phone and try and identify the police associate
09:47:38 36 who is working with the AFP before submission of an
09:47:41 37 IR"?---Yes.
09:47:41 38
09:47:41 39 You've seen that recently?---Recently, yes.
09:47:44 40
09:47:44 41 It appears that you were given a briefing on that day, at
09:47:48 42 least by that day you knew of Ms Gobbo's use as a human
09:47:52 43 source?---Yes.
09:47:53 44
09:47:54 45 Generally, and more specifically that there'd been an issue
09:47:57 46 that had arisen in relation to Mr Waters, a former member
09:48:00 47 of the Police Force?---Yes.

09:48:02 1
09:48:04 2 And I think the ICR from that date records that Mr Waters
09:48:09 3 had told Ms Gobbo that he'd heard from someone at a federal
09:48:14 4 agency that her phone was being intercepted. Do you recall
09:48:18 5 that being the issue?---Yeah - well that's what's
09:48:25 6 documented. I don't recall what I was actually told on
09:48:27 7 that day, but I don't dispute that document.
09:48:30 8
09:48:31 9 If that's what's recorded within the ICR and the SML, that
09:48:36 10 would presumably be in accordance with whatever briefing
09:48:38 11 you received?---Yes.
09:48:39 12
09:48:46 13 And that issue in relation to Mr Waters had a number of,
09:48:51 14 would have been a number of concerns. First of all there's
09:48:53 15 a concern that there might be some corruption within the
09:48:57 16 law enforcement agencies in terms of passing on
09:49:00 17 information?---Yes.
09:49:00 18
09:49:01 19 Secondly, also that Victoria Police's super grass source
09:49:06 20 might be under surveillance from a federal agency?---Yes.
09:49:10 21
09:49:11 22 And might be compromised as a result?---Possibly.
09:49:16 23
09:49:22 24 You understood you say at paragraph 25 of your statement
09:49:25 25 that Ms Gobbo was providing information about high level
09:49:28 26 criminals relevant to the operations of the Purana Task
09:49:31 27 Force?---Yes.
09:49:32 28
09:49:32 29 You would have understood what the Purana Task Force was
09:49:34 30 investigating?---Yes.
09:49:36 31
09:49:36 32 And that the targets of Purana were high profile criminals
09:49:40 33 such as Tony Mokbel and Carl Williams?---That's correct.
09:49:43 34
09:49:44 35 And that Ms Gobbo was associated with those people?---Yes.
09:49:48 36
09:49:50 37 As I said, there was much publicity around that stage in
09:49:53 38 relation to her association with Tony Mokbel and his
09:49:56 39 failure to turn up to court?---Yes.
09:49:59 40
09:50:01 41 And I take it you found it very strange that someone like
09:50:05 42 Ms Gobbo with her occupation and her public profile was a
09:50:10 43 police source for Purana in those circumstances?---Yes.
09:50:14 44
09:50:16 45 Did you ever ask how that came to be?---I can't recall
09:50:24 46 specifically asking at this stage.
09:50:27 47

09:50:27 1 Had you ever heard of anything like it?---Not that I can
09:50:37 2 recall.
09:50:37 3
09:50:39 4 Surely you made some inquiries as to how this situation, a
09:50:45 5 lawyer coming to give police information about the very
09:50:50 6 people that she acts for, surely you asked about how that
09:50:55 7 could occur?---I would expect that I did but I can't recall
09:51:01 8 having that conversation.
09:51:02 9
09:51:07 10 When you say you expect that you did, who do you expect you
09:51:12 11 would have asked those questions of?---Most likely Officer
09:51:18 12 White.
09:51:18 13
09:51:19 14 Would you have gone up the line? Because asking Officer
09:51:26 15 White, just to put it in context, is going down the line
09:51:29 16 and you might get an answer there about how it occurred in
09:51:32 17 a practical sense, but in an appropriate, in assessing the
09:51:40 18 appropriateness of what was going on and the evaluation of
09:51:43 19 the risks and those matters, you would have only, you might
09:51:49 20 have expressed your concerns up the line in terms of those
09:51:53 21 matters?---Yes. So I mean obviously the day that I
09:51:59 22 attended at the unit with Inspector McWhirter I expect that
09:52:03 23 Inspector McWhirter might have given me some background
09:52:08 24 because he was acting as the officer-in-charge of the unit.
09:52:11 25
09:52:11 26 Yes. But again that would be down the line from
09:52:14 27 you?---Down the line. And then I later had a conversation
09:52:17 28 with the Commander, Commander Moloney, about that
09:52:21 29 particular issue that was raised that day, which I recorded
09:52:24 30 in my diary.
09:52:26 31
09:52:26 32 And what date was that? We might come to it?---Yes, I'd
09:52:34 33 have to go back to my diaries, yes.
09:52:37 34
09:52:38 35 You've recorded that in your statement as well?---I believe
09:52:40 36 so, yes.
09:52:41 37
09:52:42 38 When you commence a position within Victoria Police I guess
09:52:47 39 you can't move into a position and expect that everything's
09:52:51 40 running smoothly and everything that will run the
09:52:55 41 same?---That's correct.
09:52:56 42
09:52:56 43 You need to make your own assessment as to whether matters
09:53:00 44 have been handled appropriately in the past or whether
09:53:04 45 there needs to be some changes?---You need to make yourself
09:53:09 46 aware as to whether matters are being handled appropriately
09:53:12 47 at that time and then you need to consider whether changes

09:53:16 1 are made.
09:53:17 2
09:53:17 3 When you moved into the position you did and became the
09:53:20 4 Central Source Registrar and the Local Source Registrar for
09:53:26 5 SDU, that would necessitate you becoming familiar with the
09:53:29 6 informers that they were running?---Yes, so as the Local
09:53:35 7 Source Registrar I was required to periodically audit the
09:53:40 8 files, which I did, which meant that I would have been
09:53:42 9 aware of the sources that the unit was handling at that
09:53:47 10 time.
09:53:48 11
09:53:50 12 You would have needed to appreciate the risks associated
09:53:53 13 with the informers they were running to be able to do that
09:53:57 14 job adequately?---Yes.
09:54:01 15
09:54:02 16 And whether the mechanisms that they had in place to ensure
09:54:07 17 that those risks were mitigated to the extent possible were
09:54:12 18 appropriate?---Yes.
09:54:12 19
09:54:16 20 At paragraph 32 of your statement you say you understood
09:54:20 21 that a key risk to Ms Gobbo was her safety?---Yes.
09:54:24 22
09:54:25 23 And presumably that's the same in relation to every source,
09:54:28 24 in particular sources that are run by the SDU?---No. In
09:54:36 25 relation - well, I can't say that there weren't any other
09:54:38 26 sources that related to the Purana Task Force but sources
09:54:44 27 that were associated with work being done by that Task
09:54:49 28 Force were at extreme risk because the group of people that
09:54:52 29 they were working on had shown their propensity to murder
09:54:55 30 people.
09:54:56 31
09:54:56 32 Yes. I think we're ad idem on that point. What I'm saying
09:55:02 33 is in relation to most sources safety would be one of the
09:55:06 34 key risks that you would consider, and in particular in
09:55:09 35 relation to those sources that might be giving information
09:55:13 36 as to gangland figures or the types of investigations that
09:55:19 37 Purana were working on, that would be a particularly key
09:55:23 38 risk that would need to be mitigated?---Yes.
09:55:28 39
09:55:31 40 At paragraph 32 you also go on to say, "I also understood
09:55:34 41 that there was a risk in a lawyer being a source as it
09:55:37 42 could potentially compromise prosecutions if she'd provided
09:55:41 43 information that breached confidentiality or legal
09:55:43 44 professional privilege"?---Yes.
09:55:45 45
09:55:45 46 You say that in your statement?---Yes.
09:55:47 47

09:55:47 1 You would expect there to have been on the informer
09:55:51 2 management file, in relation to that part of the policy
09:55:55 3 where it says a copy of any handling instructions relevant
09:55:58 4 and created specifically for the management of the
09:56:00 5 informer, that there would have been some sort of
09:56:04 6 indication of some mitigation for that risk?---It would be
09:56:14 7 reasonable to expect that there may be something recorded
09:56:18 8 about that.
09:56:19 9
09:56:20 10 If you understood there to be a risk that prosecutions
09:56:23 11 could be compromised, you would say it would be necessary
09:56:28 12 for there to be some consideration of that risk. It's
09:56:33 13 pretty fundamental wouldn't you think?---Yes, but having it
09:56:37 14 recorded or actually managing it are two different things.
09:56:42 15
09:56:42 16 Well, as a manager of the SDU how do you know that they've
09:56:47 17 even considered that risk?---You would discuss it with the
09:56:50 18 unit.
09:56:50 19
09:56:50 20 Would it be present in any kind of document?---If the
09:56:58 21 records were complete you would expect so, yes.
09:57:01 22
09:57:02 23 There are documents that exist within Victoria Police and
09:57:08 24 within the Informer Management Unit that are supposed to
09:57:11 25 deal with these very things, aren't there?---Yes.
09:57:14 26
09:57:15 27 They are the formal risk assessments?---Yes.
09:57:18 28
09:57:20 29 Before we move to those formal risk assessments, you'd
09:57:24 30 accept that there would be a problem within a lawyer being
09:57:28 31 a source who then goes on to represent or advise the very
09:57:31 32 people that she had informed upon?---Yes.
09:57:35 33
09:57:35 34 Fundamentally you would expect any police member who knew
09:57:40 35 that that was occurring would also know that an injustice
09:57:43 36 was occurring?---You could assume so, yes.
09:57:49 37
09:57:51 38 It would be pretty basic and fundamental?---Yes.
09:57:54 39
09:57:54 40 There would be a problem if police were a knowing party to
09:57:58 41 such an injustice occurring?---Yes.
09:58:01 42
09:58:02 43 You would expect any police member who knew that such an
09:58:06 44 injustice was occurring or became aware of it, to
09:58:10 45 immediately do something about it?---Yes.
09:58:14 46
09:58:19 47 I take it as the Local Informer Registrar you would have at

09:58:25 1 least read the risk assessment in relation to
09:58:28 2 Ms Gobbo?---At some stage I expect that I would have, yes.
09:58:32 3
09:58:33 4 Over the more than three years of Ms Gobbo's registration
09:58:37 5 there were only two formal risk assessments, you're aware
09:58:41 6 of that?---I'm aware now, yes.
09:58:43 7
09:58:44 8 One on 15 November 2005 and one on 20 April 2006?---Yes.
09:58:51 9
09:58:51 10 Was that adequate?---With hindsight - my recollection of
09:59:05 11 the actual risk assessment process with this particular
09:59:09 12 source was that it was continuous. It was - whenever the
09:59:14 13 source was discussed with me I don't think there would have
09:59:18 14 been a conversation where the risk wasn't discussed and how
09:59:22 15 it was being managed.
09:59:24 16
09:59:24 17 In terms of the risk being discussed with you, was that
09:59:27 18 limited to the risk to her safety?---I would expect that it
09:59:34 19 wasn't just limited but that is what I can recall today.
09:59:37 20
09:59:38 21 The source management log contains monthly source reviews,
09:59:47 22 some months are missing, but there are a number of lines
09:59:54 23 and some of them are a bit more lengthy than others and a
09:59:57 24 number of lines updating the status once a month or
10:00:01 25 thereabouts. Did you have access to the source management
10:00:03 26 log?---Yes, I had access to everything that was lodged with
10:00:09 27 the Human Source Management Unit.
10:00:11 28
10:00:12 29 The source management log, how often was that lodged or
10:00:15 30 updated with the Human Source Management Unit?---I can't
10:00:27 31 recall at this stage whether it was a monthly process or
10:00:31 32 whether it was continuous, so I was able to go into the
10:00:39 33 Human Source Management Unit record and I was able to
10:00:43 34 determine that the unit was always behind on contact
10:00:48 35 reports for that particular source, so I was obviously
10:00:52 36 looking at almost real time records.
10:00:56 37
10:00:56 38 Real time records that were behind, is that right?---Sorry,
10:01:01 39 a real time record of activity but with no content.
10:01:07 40
10:01:07 41 Right. So you're aware that there was ongoing contact with
10:01:11 42 the source but not what the content of the contact
10:01:14 43 was?---Yes, the source contact reports were delayed.
10:01:17 44
10:01:18 45 What about the source management log?---Well I would assume
10:01:26 46 it was the log that was I looking at. I can't recall
10:01:29 47 exactly what I viewed in the unit, but I would assume that

10:01:35 1 it was the log.
10:01:35 2
10:01:36 3 Was there any audit trail associated with people's
10:01:40 4 inspection of that source management log?---My access of
10:01:47 5 those records should have been recorded on the log.
10:01:51 6
10:01:52 7 On the log itself?---On the human source management record
10:01:55 8 of the log.
10:01:56 9
10:01:56 10 Right. Do you know how often you accessed the source
10:02:03 11 management log?---Probably - this is in 2006 we're talking
10:02:15 12 about or - - -
10:02:16 13
10:02:17 14 Yes, and beyond that?---So, sorry - - -
10:02:21 15
10:02:22 16 Starting in 2006?---So, sorry, in 2006 for a short period I
10:02:27 17 was the, both the LSR and the central or the CSR. So as
10:02:33 18 the LSR I would expect that it was probably monthly or
10:02:39 19 bimonthly. As the CSR I only needed to see extraordinary
10:02:44 20 things because the Human Source Management Unit carried out
10:02:47 21 most of my functions for me.
10:02:48 22
10:02:48 23 As the CSR how often would you - beyond about mid-2006 how
10:02:54 24 often would you have looked at that log?---Rarely is
10:03:02 25 probably the most accurate answer that I can give.
10:03:04 26
10:03:10 27 If we can bring up the November 2005 risk assessment
10:03:15 28 please. It's VPL.2000.0003.8288. Is this in the form that
10:03:35 29 all risk assessments were conducted or laid out?---I
10:03:41 30 believe so, yes.
10:03:42 31
10:03:43 32 It considers a number of risks on the way through. The
10:03:47 33 first being a risk to source of compromise. The next being
10:03:52 34 a risk to the handler/controller of being jeopardised. The
10:03:56 35 next being a risk to the integrity of the information.
10:04:00 36 Then the risk of Victoria Police of exposure and then the
10:04:04 37 risk of public harm. Those are generally the five risks
10:04:08 38 that are taken into account, is that right?---From memory,
10:04:12 39 yes. I can't see the - - -
10:04:15 40
10:04:16 41 I think some of - - - ?---Yes, I accept that.
10:04:19 42
10:04:24 43 It's readily apparent from a read of this form that
10:04:27 44 Ms Gobbo acted as a human source in relation to providing
10:04:33 45 information about Tony Mokbel and his associates, you would
10:04:35 46 agree with that?---Yes.
10:04:36 47

10:04:37 1 If we look at the second paragraph on p.1 under the first
10:04:44 2 risk, "risk to source of compromise". "The source is
10:04:51 3 currently acting for several members of the Mokbel criminal
10:04:56 4 cartel, including Tony Mokbel"?---Yes.
10:04:57 5
10:04:58 6 If we look at the third paragraph it includes, it starts,
10:05:01 7 "Over the past 12 months the source has had conversations
10:05:04 8 with several police members, including members of Purana
10:05:07 9 and the MDID regarding the possibility of her assisting
10:05:11 10 police"?---Yes.
10:05:11 11
10:05:13 12 If we move on to the second page, please. The third
10:05:21 13 paragraph there, "The source has stated a strong desire to
10:05:26 14 be free of the clients who tend to consume a large
10:05:28 15 proportion of the source's time and resources and thus
10:05:32 16 create a great deal of stress to the source. The source
10:05:35 17 states that her sole motivation for acting as a source is
10:05:38 18 to be rid of the clients in this category, specifically
10:05:41 19 those who belong to the Mokbel criminal cartel". Do you
10:05:45 20 see that?---Yes.
10:05:46 21
10:05:49 22 Over to the fourth page, the second paragraph under the
10:05:55 23 risk of "risk to the integrity of information". It
10:06:01 24 includes, "Within a short time the source has provided
10:06:05 25 credible and valuable intelligence to police. The source
10:06:08 26 is well positioned to obtain tactically viable intelligence
10:06:13 27 in relation to criminal activities of the Mokbel
10:06:16 28 cartel"?---Yes.
10:06:17 29
10:06:17 30 What is readily apparent from that risk assessment is that
10:06:22 31 Ms Gobbo was providing the police with information about
10:06:25 32 Tony Mokbel with the aim that he would be prosecuted by
10:06:28 33 them, is that right?---Yes, I'd say yes.
10:06:37 34
10:06:37 35 It was anticipated that she would continue to provide such
10:06:43 36 information?---Yes.
10:06:45 37
10:06:45 38 At the same time she was continuing to act as Tony Mokbel's
10:06:49 39 lawyer?---Apparently so.
10:06:54 40
10:06:54 41 Do you see any problem with that?---Potential conflict.
10:06:59 42
10:07:01 43 It's more than a potential conflict I'd suggest. On the
10:07:07 44 face of it it's a blatant fundamental conflict?---On the
10:07:14 45 face of it, but I think there's also a little bit more that
10:07:19 46 I understood when I dug a bit deeper and that was that
10:07:24 47 there was social activity.

10:07:27 1
10:07:28 2 She is acting for someone?---Yes.
10:07:31 3
10:07:33 4 Presumably as a lawyer supposedly acting in his best
10:07:38 5 interests?---Yes.
10:07:39 6
10:07:40 7 She is acting for the police as an agent?---Yes.
10:07:46 8
10:07:47 9 How can those things, two things go together?---Because not
10:07:52 10 only was she acting for him as his lawyer, she was also
10:07:57 11 socialising with him.
10:07:59 12
10:08:02 13 You don't see a fundamental conflict in someone acting as a
10:08:07 14 lawyer at the same time as informing on their client,
10:08:12 15 continuing to act as a lawyer, as their lawyer, you don't
10:08:15 16 see that as a fundamental conflict?---Yes, if she's acting
10:08:26 17 on what she's learnt through the client/lawyer relationship
10:08:32 18 and acting as an agent. Sorry, because it was also my
10:08:37 19 understanding that she was socialising not only with Tony
10:08:41 20 Mokbel but people from this group.
10:08:43 21
10:08:44 22 Whom it's apparent she was also acting for?---Perhaps some
10:08:47 23 of them, yes.
10:08:48 24
10:08:48 25 How can she be providing - let's just limit it to Mr Mokbel
10:08:53 26 to begin with, how can she be expected to act as a lawyer
10:08:58 27 providing him with independent impartial advice when she's
10:09:02 28 providing information with the aim that he's prosecuted and
10:09:05 29 continues to act for him? How can that be so?---Because
10:09:10 30 she may be providing information to the police that she's
10:09:14 31 learnt through socialising with him and not actually
10:09:17 32 through her professional relationship.
10:09:19 33
10:09:19 34 How can she continue to act for him and provide him with
10:09:24 35 independent impartial advice as a lawyer?---I don't have an
10:09:29 36 answer.
10:09:30 37
10:09:34 38 At p.5 under the heading of "risk to Victoria Police of
10:09:38 39 exposure", you see that heading there? If we go through
10:09:47 40 there's a number of risks that are given, levels of risks.
10:09:53 41 If we can go over the page there's four listed on that
10:09:56 42 first page - if we can go over the page to the sixth risk
10:10:01 43 identified there. Under that heading, "Because of the
10:10:06 44 source's occupation and particular position, if compromised
10:10:09 45 the handling of this source would come under extreme
10:10:13 46 scrutiny. This could cause embarrassment and criticism of
10:10:16 47 the Force. This must be considered and balanced against

10:10:19 1 the proposition of not utilising the source and the
10:10:21 2 potential resultant harm to the public that may occur
10:10:25 3 through lack of intelligence against very large scaled drug
10:10:30 4 traffickers"?---Yes.
10:10:31 5
10:10:31 6 Do you have any understanding as to why it might be
10:10:35 7 suggested that embarrassment and criticism of Victoria
8 Police might occur if Ms Gobbo's identity as a human source
10:10:43 9 became known?---Because it could be assumed she had
10:10:46 10 breached confidentiality.
10:10:47 11
10:10:47 12 Because it might cause the potential for convictions and
10:10:52 13 prosecutions to have been undermined?---Yes.
10:10:55 14
10:10:56 15 Because it wasn't a situation that was anticipated to be
10:11:02 16 exposed to the courts?---Yes.
10:11:05 17
10:11:05 18 It was anticipated that this would be hidden from the
10:11:08 19 courts?---Correct.
10:11:10 20
10:11:11 21 And that therefore might cause some embarrassment if it's
10:11:14 22 discovered?---Yes, but that's not, that's not assuming that
10:11:22 23 she was actually acting in conflict, understanding that, as
10:11:27 24 I've explained, as I knew it the information that she was
10:11:31 25 providing came from her socialising with these particular
10:11:34 26 persons.
10:11:34 27
10:11:36 28 Providing, acting at the same time as a police agent, as
10:11:41 29 she was acting as their lawyer?---And socialising at the
10:11:48 30 same time, yes.
10:11:49 31
10:11:49 32 Yes?---That's correct.
10:11:50 33
10:11:52 34 But it's acknowledged in this sentence, isn't it, that
10:11:57 35 should this become known it might cause embarrassment and
10:12:02 36 criticism of the Force?---Yes.
10:12:03 37
10:12:05 38 How does that sit with the ethical obligations that the
10:12:12 39 police are expected to abide by?---What could be perceived
10:12:24 40 was what could have embarrassed the Force. I believed at
10:12:29 41 the time we had processes in place to actually be sure that
10:12:33 42 we weren't acting outside of the interests of the criminal
10:12:38 43 justice system.
10:12:38 44
10:12:39 45 What was that process?---That the information that we were
10:12:43 46 gaining was the information that she gained only from the
10:12:45 47 social activity.

10:12:46 1
10:12:47 2 How did you know that that was occurring?---I was reliant
10:12:55 3 on the members carrying out the work to do so.
10:12:58 4
10:12:58 5 Where was the written process to ensure that they correctly
10:13:03 6 understood what was to occur?---I'm not aware that there
10:13:08 7 was a written process.
10:13:09 8
10:13:11 9 Did you know that there certainly wasn't any written
10:13:14 10 process, that none of this was written down?---I couldn't
10:13:24 11 say for sure that it wasn't written down anywhere.
10:13:30 12
10:13:30 13 Did you have any discussion about this aspect with any
10:13:35 14 responsible superior officers?---At this early stage?
10:13:48 15
10:13:50 16 Certainly when you became aware of these matters. You've
10:13:54 17 arrived at the SID, you've got a role that is oversight of
10:14:01 18 this unit, you're aware that there are serious risks
10:14:05 19 associated with potential compromise of prosecutions of
10:14:11 20 significant people, we're talking about significant
10:14:14 21 gangland prosecutions, and there's a prospect of
10:14:20 22 embarrassment and criticism of the force if she is
10:14:24 23 compromised?---I can't say for certain that I didn't have
10:14:30 24 those conversations, but I can't recall them.
10:14:32 25
10:14:45 26 Were you aware that there was any high level involvement of
10:14:50 27 people in relation to the approval process that had
10:14:54 28 occurred before you came on board in terms of Mr Overland's
10:14:58 29 involvement and Assistant Commissioner, it might have been
10:15:05 30 Inspector Hill at that stage or Detective Inspector
10:15:12 31 Hill?---My recollection at this stage is that the lines of
10:15:15 32 management in both Intelligence and Covert Support and
10:15:20 33 crime were aware of what was happening.
10:15:25 34
10:15:26 35 Were you aware that the Assistant Commissioner of Crime
10:15:30 36 knew what was going on?---My recollection is that it went
10:15:36 37 to department head level, which meant that it was Assistant
10:15:41 38 Commissioner in Crime and Commander in Intel and Covert.
10:15:44 39
10:15:45 40 Do you know if it went beyond Mr Overland or did it stop
10:15:48 41 with him?---No, I wouldn't know if it went beyond.
10:15:51 42
10:15:52 43 Did you ever have any meetings with Mr Overland?---There's
10:15:58 44 nothing that I can recall.
10:16:01 45
10:16:03 46 That risk assessment was updated, and there's a risk
10:16:09 47 assessment dated 20 April 2006. That's VPL.2000.0003.8295.

10:16:38 1 If we just quickly scroll through this what I think you'll
10:16:45 2 see - sorry, if we go back up to the top, you'll see just
10:16:52 3 above the box that it says updated risk and control
10:16:56 4 measures are marked with asterisk and highlighted in bold
10:17:01 5 type. Essentially this is the same document and anything
10:17:04 6 you see in bold and with an asterisk is the update,
10:17:09 7 okay?---Okay.
10:17:09 8
10:17:10 9 If we can go to p.3, please. These are some of the
10:17:18 10 additions that have occurred since the previous risk
10:17:28 11 assessment. And you'll see there third from the bottom
10:17:32 12 there that, "Because of contact with known criminals and in
10:17:36 13 particular Tony Mokbel, the source may be the subject of
10:17:38 14 telephone intercepts by another agency and that would
10:17:42 15 result clearly in her compromise". So that seems to take
10:17:46 16 into account at least partially that matter that you were
10:17:52 17 discussing earlier with Mr McWhirter?---Yes.
10:17:57 18
10:17:58 19 Although in particular - it's a bit more general because
10:18:01 20 it's dealing with her contact with associates, but they've
10:18:05 21 become aware of that risk because of that matter. Do you
10:18:08 22 see what I mean?---Yes, yes.
10:18:09 23
10:18:10 24 Because of an experience that had occurred in terms of a
10:18:14 25 notification that she might be under surveillance by
10:18:17 26 another federal body, they've obviously then appreciated a
10:18:21 27 risk and then put it into the risk assessment, do you see
10:18:24 28 what I mean?---Yes.
10:18:25 29
10:18:28 30 One of the additions is that, just down the bottom there,
10:18:35 31 "In her role as a barrister the source has been involved in
10:18:39 32 advising certain high level criminals making statements to
10:18:42 33 assist police". Do you see that?---Yes.
10:18:47 34
10:18:49 35 Do you agree that it's problematic to have someone advising
10:18:53 36 people to assist police when that person is in fact a
10:18:57 37 police agent?---Yes, if it's a proper client/lawyer
10:19:09 38 relationship, yes.
10:19:10 39
10:19:10 40 If you've got a person who is in fact a police agent whose
10:19:16 41 interests are aligned with the police, it can't be
10:19:20 42 guaranteed that that person is going to be providing
10:19:23 43 independent impartial advice to this potential client
10:19:27 44 that's in their best interests and not in the police's best
10:19:30 45 interest, do you see what I mean?---Yes, okay. Yes.
10:19:36 46
10:19:41 47 Although it says, "In her role as a barrister", Purana and

10:19:48 1 the SDU were - were you aware that Purana and the SDU were
10:19:52 2 covertly providing Ms Gobbo with information unbeknownst to
10:19:56 3 her clients or her client's solicitor in order that she
10:20:00 4 might be able to speak with her client in that
10:20:04 5 knowledge?---Not - I can't recall ever knowing that.
10:20:12 6
10:20:12 7 Would that concern you to learn that?---It's always
10:20:21 8 concerning when information is being revealed to a source
10:20:27 9 rather than it being the other way around.
10:20:29 10
10:20:30 11 The police and through the Purana and the SDU were covertly
10:20:36 12 giving Ms Gobbo transcripts in relation to conversations
10:20:41 13 with a particular client of hers, unbeknownst to that
10:20:44 14 client, unbeknownst to that client's solicitor, so that
10:20:48 15 that might influence her and the client in her discussions
10:20:51 16 with the client to take on a certain course which would be
10:20:55 17 favourable to the police. Do you see a problem with
10:20:58 18 that?---Yes.
10:20:59 19
10:20:59 20 Did anyone ever tell you that this was what was occurring
10:21:04 21 within Purana and within the SDU?---No.
10:21:06 22
10:21:11 23 They were in fact using her role as a barrister whilst
10:21:15 24 she's a police agent?---That's not my understanding. My
10:21:21 25 understanding at that time was that she was giving
10:21:26 26 information that was being gained through her socialising
10:21:29 27 with this group.
10:21:30 28
10:21:36 29 If we can move on to p.4, please. Sorry, if we go up the
10:21:46 30 top. You'll see these are some of the risk mitigation
10:21:53 31 strategies in relation to some of those identified risks.
10:22:01 32 And you see the second-last one there, "If dealing with
10:22:05 33 individuals who may make statements against the Mokbel
10:22:09 34 group source to pass the client to a new legal
10:22:12 35 representative"?---Yes.
10:22:13 36
10:22:15 37 Did you ever follow up to ensure that at least that was
10:22:18 38 occurring?---No, I never, never followed the operations of
10:22:25 39 the Task Force.
10:22:25 40
10:22:27 41 What was apparent by this time was that Operation Posse,
10:22:36 42 part of Purana, do you understand what Operation Posse
10:22:41 43 was?---Um - - -
10:22:42 44
10:22:42 45 That was the operation within Purana to target the Mokbel
10:22:46 46 cartel and his associates?---I remember the name, I can't
10:22:50 47 remember the topic of the operation.

10:22:52 1
10:22:52 2 That's basically an explanation of what it was. Part of
10:22:56 3 their strategy was to target particular people with the
10:23:00 4 plan that upon catching those people that they might roll
10:23:04 5 and then - well because of being caught they might be
10:23:09 6 motivated then to implicate the Mokbel family and their
10:23:13 7 associates. That was the strategy, right?---Okay.
10:23:16 8
10:23:16 9 Ms Gobbo was representing a particular target in that
10:23:22 10 regard, as well as representing Mr Mokbel. Do you
10:23:25 11 understand that?---Yes.
10:23:28 12
10:23:30 13 Ms Gobbo was telling the SDU, the handlers and controllers,
10:23:35 14 that she was intending to advise that particular target
10:23:39 15 when that person was arrested by Purana?---Yes.
10:23:45 16
10:23:47 17 At the very least the handler and controller discussed
10:23:51 18 between themselves the problems that that might cause in
10:23:55 19 terms of the admissibility of evidence relating to that
10:23:59 20 person down the line. Was any of that ever brought to your
10:24:03 21 attention?---Not that I can recall, no.
10:24:06 22
10:24:14 23 This added control measure was something that was simply
10:24:17 24 never complied with, within the SDU in respect of Ms Gobbo.
10:24:25 25 How could that occur?---I'm not sure.
10:24:37 26
10:24:42 27 Were there ever any audits that took place in relation to
10:24:48 28 these control measures being complied with?---Not that I'm
10:24:53 29 aware of, no.
10:24:54 30
10:25:04 31 The Commission has a statement from a person with the
10:25:09 32 pseudonym Ted Richards. I'm not sure if you know who that
10:25:14 33 might be. If he might be shown the flash card. It's
10:25:21 34 another person that became a controller at the SDU,
10:25:25 35 Mr Porter?---Thank you.
10:25:44 36
10:25:46 37 Mr Richards has provided a statement that reads like this
10:25:50 38 at paragraph 33, "The conclusion reached post risk
10:25:55 39 assessment of ongoing use, tactical deployment or witness
10:25:58 40 deployment was not a decision for the SDU as this
10:26:01 41 decision-making process could only be approved through the
10:26:04 42 chain of command. Superintendent Porter at the time of the
10:26:08 43 SDU handling Ms Gobbo as a human source was responsible as
10:26:10 44 the Central Source Registrar and as such had full authority
10:26:14 45 to ensure Ms Gobbo remained as a human source, what tasking
10:26:18 46 was approved and when to deactivate or ask for further
10:26:22 47 information to guide his decisions. Mr Porter and the HSMU

10:26:26 1 had full access to all records of Ms Gobbo during this
10:26:29 2 time. Mr Porter represented Victoria Police and had
10:26:32 3 overall authority to make decisions based on
10:26:34 4 recommendations of the SDU or other interested parties".
10:26:40 5 Do you have any comment to make about those matters?---In
10:26:46 6 principle, yes, that's - what is stated there is correct.
10:26:51 7
10:26:51 8 At paragraph 62 of your statement you talk about those
10:26:55 9 kinds of matters and the authorisation applicable. You say
10:27:05 10 there that, "I was involved in Ms Gobbo's continued
10:27:09 11 authorisation as described above in my response to question
10:27:12 12 2 in that I audited her human source file. I was for a
10:27:17 13 short time the Local Source Registrar managing the unit
10:27:19 14 handling her and I was the CSR whilst she was
10:27:22 15 registered"?---Yes.
10:27:23 16
10:27:23 17 Who else was - that's a very technical approach to the
10:27:27 18 answer to that question. Who else was in reality
10:27:33 19 responsible for her continued use and the authorisation of
10:27:36 20 that? Who had input, who ensured this person - - - ?---So
10:27:47 21 the lines of management from the Source Development Unit
10:27:54 22 through to the head of Intelligence and Covert Support, and
10:28:00 23 the line of management from the Purana Task Force through
10:28:04 24 to the department head for crime.
10:28:07 25
10:28:08 26 If you'd decided, "This is too much, I'm shutting this
10:28:13 27 down", which clearly didn't happen, but there were all
10:28:17 28 sorts of people, weren't there, that were having an
10:28:21 29 influence upon the continued use of Ms Gobbo? Purana Task
10:28:26 30 Force had a significant input into her continued use, you
10:28:31 31 would agree?---Yes.
10:28:32 32
10:28:36 33 A significant source of information and intelligence to
10:28:39 34 them would have stopped and they wouldn't have been happy
10:28:42 35 about that?---Yes, it would have made their job much more
10:28:46 36 difficult.
10:28:46 37
10:28:49 38 Were you or are you aware of discussions that they had, any
10:28:56 39 involvement that they had in the influencing of the
10:28:58 40 continued use of Ms Gobbo?---I may have been, I can't
10:29:06 41 recall anything specific.
10:29:08 42
10:29:12 43 Did you have any discussions with anyone else about the
10:29:16 44 continued use of Ms Gobbo? You're aware that around that
10:29:21 45 time there was a significant operation that had occurred
10:29:26 46 and really by around April or so Ms Gobbo's use may well
10:29:35 47 have been thought, "Well, we've had enough now, we can move

10:29:40 1 on", by the time of this second risk assessment. Was there
10:29:47 2 any thought around that time to saying, "That's
10:30:02 3 enough"?---Look, I have a vague recollection that from day
10:30:06 4 one when I learnt that she was registered, that because the
10:30:14 5 risk was so high and the work was so intense we would have
10:30:22 6 been constantly looking for a potential end.
10:30:27 7
10:30:28 8 She consumed a great deal of resources, is that
10:30:31 9 right?---Yes.
10:30:31 10
10:30:32 11 From the outset she wasn't any ordinary source?---I would
10:30:37 12 agree with that.
10:30:38 13
10:30:41 14 It seems from the material that the Commission has that the
10:30:46 15 level of information flow from her was just, it was such
10:30:53 16 that handlers needed to be rotated, she couldn't be treated
10:30:58 17 like any other source because it was too much?---It was the
10:31:04 18 most, she was the most intense human source that we had
10:31:08 19 registered at that time in the State.
10:31:11 20
10:31:12 21 Would you say that just simply on the basis of the
10:31:18 22 information flow or was it more than that in terms of the
10:31:21 23 ability to handle someone like her, her personality and
10:31:26 24 other matters of that nature?---Both.
10:31:29 25
10:31:31 26 What were you being told in relation to those other
10:31:34 27 matters, other than, say, the level of information
10:31:38 28 flow?---That she was contacting the handlers continuously
10:31:42 29 at all hours of the day and night, seven days a week.
10:31:47 30
10:31:48 31 Was she someone that was emotional or needy or
10:31:53 32 psychiatrically unwell, psychologically unwell, were you
10:31:58 33 being told all those sorts of things?---I've tried to think
10:32:02 34 of a word to describe it recently. I suppose the word that
10:32:05 35 I could probably best use to describe the impression that I
10:32:08 36 was given would be that she was almost hyperactive.
10:32:13 37
10:32:28 38 Were you ever told anything about her mental health
10:32:36 39 issues?---I did recall being told that she had suffered a
10:32:49 40 stroke at some stage.
10:32:56 41
10:32:57 42 The Commission understands that was back in 2004?---And
10:33:02 43 really, that's really the only health issue that I can
10:33:06 44 recall, but that doesn't mean that I wasn't told other
10:33:10 45 things, I just can't recall them now.
10:33:11 46
10:33:12 47 Were you ever told about concerns or issues associated with

10:33:17 1 her fishing for information from the SDU? By that I mean
10:33:25 2 trying to herself use the SDU to obtain information?---Not
10:33:37 3 specifically, no.
10:33:38 4
10:33:39 5 Those kinds of matters would be of concern because it would
10:33:42 6 be a risk to the information of the Victoria Police?---Yes.
10:33:49 7 So that type of activity with human sources is quite common
10:33:54 8 and that is a fundamental risk that has to be managed all
10:33:59 9 the time.
10:33:59 10
10:34:00 11 Were you ever told anything about her being
10:34:11 12 manipulative?---I'm not sure if that word was ever used but
10:34:16 13 in her being hyperactive, I understood that she was very
10:34:22 14 demanding.
10:34:24 15
10:34:28 16 If we can bring up the issue cover sheet relating to the
10:34:35 17 Biggin audit, please. VPL.2000.0002.0017.
10:34:42 18
10:34:42 19 COMMISSIONER: I'll just mention the November 2005 risk
10:34:47 20 assessment was Exhibit 285 and the 8006 one was 2006.
10:34:53 21
10:34:53 22 MS TITTENSOR: Thank you, Commissioner, and I failed to
10:34:55 23 tender the Calishaw day book.
10:34:59 24
10:35:09 25 #EXHIBIT RC513A - (Confidential) Calishaw day book extract
10:35:22 26 26/10/05.
10:35:22 27
10:35:22 28 COMMISSIONER: I don't think there's any need for redaction
10:35:25 29 there, is there?
10:35:25 30
10:35:26 31 MS ARGIROPOULOS: There is at least one name I know of,
10:35:28 32 Commissioner.
10:35:28 33
10:35:29 34 COMMISSIONER: Okay, A and B.
10:35:31 35
10:35:32 36 #EXHIBIT RC513B - (Redacted version.)
10:35:34 37
10:35:34 38 MS TITTENSOR: I think in paragraph 23 of your statement
10:35:36 39 you've indicated that you don't recall if you asked
10:35:40 40 Superintendent Biggin to conduct the review and what
10:35:43 41 prompted it, but it seems apparent from the first sentence
10:35:45 42 of the background that it was prompted because Commander
10:35:49 43 Moloney asked for it?---Yes.
10:35:50 44
10:35:55 45 It's apparent by this stage, so this is around about - it
10:36:02 46 had been requested on 27 April 2006. It's apparent by that
10:36:10 47 stage that there'd been some significant arrests by the

10:36:19 1 Purana Task Force on the basis of information Ms Gobbo had
10:36:23 2 provided, you would have been aware of that around that
10:36:27 3 time?---Yes, I think most of the arrests were made very
10:36:32 4 public.
10:36:32 5
10:36:32 6 Yes. Milad Mokbel had been arrested around that time and a
10:36:39 7 number of others?---Yes.
10:36:40 8
10:36:40 9 You're aware of that? It's apparent that in that process
10:36:47 10 Ms Gobbo had turned up to advise a client that she'd been
10:36:54 11 providing information about, so that is she'd been
10:37:00 12 providing information about a particular client, that that
10:37:05 13 client, that had led to that client's arrest and that on
10:37:08 14 the night that that client was arrested she turned up to
10:37:11 15 provide him with legal advice?---I wasn't aware of it at
10:37:16 16 the time.
10:37:19 17
10:37:23 18 Those facts in themselves are significantly concerning,
10:37:26 19 would you say?---Yes.
10:37:27 20
10:37:29 21 Every chance of compromising any prosecution flowing from
10:37:34 22 it?---Yes.
10:37:35 23
10:37:39 24 What would you expect investigators to have done when
10:37:42 25 confronted with that situation?---So usually when a
10:37:51 26 difficult legal issue like that arises you would either
10:37:55 27 discuss it with, for very serious prosecutions the Office
10:38:04 28 of Public Prosecutions. If that wasn't appropriate I'd
10:38:07 29 probably seek legal, independent legal advice.
10:38:10 30
10:38:10 31 Would it surprise you to learn that on the very night that
10:38:13 32 that occurred investigators spoke with the Office of Public
10:38:18 33 Prosecutions but in relation to a different matter and
10:38:20 34 didn't raise that matter?---Well it depends who they were
10:38:27 35 talking to. I mean - - -
10:38:29 36
10:38:29 37 A senior Crown Prosecutor?---About that particular matter?
10:38:38 38
10:38:38 39 They rang to seek advice in relation to the arrest of this
10:38:43 40 particular person and the conditions upon which they could
10:38:47 41 hold this particular person, but they failed to mention
10:38:51 42 that this particular person had been arrested on the basis
10:38:55 43 of information from Ms Gobbo and, "By the way, she's
10:38:59 44 advising him tonight as well"?---I think it probably would
10:39:09 45 be a little difficult to expect - sorry, it would be a
10:39:12 46 little bit too much to expect that the investigators on
10:39:14 47 that night would quickly disclose something like that to

10:39:19 1 whoever it was because the primary consideration would have
10:39:27 2 been ensuring that revealing her as a human source was a
10:39:35 3 threat to her personal safety.

10:39:37 4
10:39:37 5 What was happening on that night was going to have an
10:39:40 6 impact for prosecutions from that time. You couldn't
10:39:48 7 backdate any advice from anyone else, it was an immediate
10:39:52 8 concern, it was an urgent concern. Would you expect
10:39:55 9 investigators confronted with that to at least go to their
10:39:59 10 own superiors or go to the legal department of Victoria
10:40:03 11 Police and say, "What do we do"?---Yes, but in doing so,
10:40:12 12 um, you've got to be very careful about broadening the
10:40:16 13 group of people who learn or then know that this particular
10:40:24 14 person was a human source. So you'd have to be, you'd have
10:40:27 15 to give careful consideration as to how you did it.

10:40:30 16
10:40:31 17 It's apparent from this audit by Mr Biggin that it was
10:40:39 18 already a pretty broad group that knew about Ms Gobbo as a
10:40:43 19 human source. It's apparent also that by this time
10:40:47 20 Mr Overland, the Assistant Commissioner of Crime, knew
10:40:50 21 about Ms Gobbo as a human source. You would think
10:40:54 22 something so fundamental as a gangland arrest and
10:40:58 23 prosecution might deserve a bit of thought and
10:41:03 24 consideration. You might immediately go to your superiors,
10:41:09 25 do you think? You don't just cover it up?---No, if it was
10:41:16 26 - yeah, but you have to give careful consideration as to
10:41:20 27 who further you're going to reveal this fact to.

10:41:23 28
10:41:29 29 Taking some slight consideration, but remembering that on
10:41:33 30 this night the process that's occurring is someone is
10:41:37 31 getting some legal advice which is going to affect them and
10:41:43 32 their prosecution from that point in time, compromising
10:41:46 33 that prosecution and potentially others from that moment,
10:41:50 34 from that point in time, and, by the way, that was a risk
10:41:54 35 that had already been contemplated by others in Victoria
10:41:57 36 Police leading up to that point in time?---Yes, but if I
10:42:02 37 was in the shoes of the Purana investigators I might have
10:42:08 38 thought, for example, that it may have been much more
10:42:11 39 appropriate to, for Victoria Police to make an approach to
10:42:15 40 the Director rather than a prosecutor.

10:42:18 41
10:42:20 42 So that would have been an appropriate response, is to,
10:42:25 43 okay we're not going to deal with the senior Crown
10:42:28 44 Prosecutor, we'll deal with the DPP?---One consideration,
10:42:33 45 yes.

10:42:33 46
10:42:35 47 Another consideration is, well, Mr Overland already knows

10:42:38 1 about this, let's go and speak to him?---Sorry, internally
10:42:45 2 within - yes.
10:42:46 3
10:42:47 4 Either internally or in terms of legal advice?---Yes,
10:42:49 5 internally yes, so management of the investigators, the
10:42:54 6 line of management of the investigators should have been
10:42:56 7 advised.
10:42:57 8
10:42:57 9 You've got, in terms of the department that you're in, you
10:43:02 10 go all the way up to Danye Moloney, perhaps you should
10:43:07 11 have been consulted do you think, on this night, and Danye
10:43:11 12 Moloney on this night?---My interest wasn't the
10:43:14 13 prosecutions so it would be a responsibility for crime.
10:43:20 14
10:43:20 15 Yes, but if your members have got knowledge that this risk
10:43:25 16 is occurring would you expect them to raise it with
10:43:35 17 you?---Not if they raised it through the line of management
10:43:38 18 over the investigation.
10:43:39 19
10:43:40 20 So you would be content for them not to raise it with you
10:43:44 21 so long as they were raising it through the Crime
10:43:48 22 Department?---The line of management over the investigation
10:43:50 23 that was affected, yes.
10:43:51 24
10:43:53 25 But regardless, it couldn't just sit there on the night, it
10:43:57 26 had to be raised? It couldn't just be let happen and not
10:44:01 27 raise it with anyone?---Well it - if it wasn't raised it
10:44:10 28 was an ongoing risk and, yeah.
10:44:17 29
10:44:25 30 Would it surprise you - well, it's apparent that
10:44:31 31 Superintendent Biggin was present on the night that those
10:44:35 32 events I've just described took place?---Sorry, is it in
10:44:44 33 the document or - - -
10:44:45 34
10:44:45 35 Not necessarily in this document, I'm not sure, 100 per
10:44:50 36 cent sure about that, but it seems Superintendent Biggin
10:44:53 37 was present on the night that that took place, that those
10:44:56 38 obvious risks eventuated. Investigators spoke to
10:45:02 39 Superintendent Biggin on the night and that he's then
10:45:08 40 conducting this audit which seems to say everything's going
10:45:14 41 along hunky dory?---Look, I'm - if he was there on the
10:45:21 42 night I'm unaware of it at this stage.
10:45:23 43
10:45:24 44 You would expect that any - those risks having eventuated
10:45:29 45 would have found their way into this audit, this
10:45:48 46 report?---It's - - -
10:45:49 47

10:45:49 1 You would expect someone conducting an audit in those
10:45:52 2 circumstances, having been present when those risks
10:45:56 3 eventuated, when those circumstances occurred, in his
10:45:59 4 presence, that that might have found its way into this
10:46:04 5 audit so that it could be reported to you and reported to
10:46:08 6 Commander Moloney?---That's a reasonable expectation, yes.
10:46:18 7
10:46:22 8 You would agree that - you've seen this document in recent
10:46:27 9 times, is that right?---About a month ago.
10:46:32 10
10:46:35 11 You'd agree that the audit gives no consideration to the
10:46:38 12 appropriateness at all of Ms Gobbo being a source in
10:46:41 13 relation to the information she'd been providing to the
10:46:45 14 police, there's no regard had to that in the audit?---Can
10:46:50 15 we just scroll down?
10:46:52 16
10:46:53 17 Sure, sure?---Can we keep scrolling. So this is really
10:47:26 18 like a covering report, so it may be that there was
10:47:31 19 reference to the actual risk in another document and this
10:47:35 20 is just a document that says that it's been assessed.
10:47:38 21
10:47:39 22 I was going to ask you about that. If we go up to the top
10:47:43 23 this says it's an issue cover sheet?---Yes.
10:47:45 24
10:47:45 25 Is this the actual audit or is this not the audit
10:47:50 26 document?---It's the report of the result of the audit.
10:47:57 27
10:47:57 28 But is there a longer, more in-depth document that's meant
10:48:03 29 to sit behind this issue cover sheet, or is this it in
10:48:07 30 terms of Mr Biggin's audit?---I can't say. I don't know.
10:48:12 31
10:48:12 32 In terms of any other audit you received at the time, would
10:48:18 33 it be of this nature, an issue cover sheet, or would it be
10:48:23 34 a longer process?---It would depend on what had been
10:48:34 35 audited, what had been viewed by the auditor. I mean if
10:48:39 36 the material that had, that was viewed was all
10:48:44 37 self-explanatory then there might only ever be a covering
10:48:49 38 report produced.
10:48:58 39
10:49:02 40 On the second-last paragraph of that first page it refers
10:49:08 41 to the Local Informer Registrar being required to maintain
10:49:12 42 the informer management file and oversight of the
10:49:14 43 relationship. It says, "There's no written evidence that
10:49:16 44 the Local Informer Registrar has conducted the two
10:49:20 45 quarterly inspections or reviewed as required by the policy
10:49:24 46 but may have done without documenting". Do you know
10:49:26 47 whether those quarterly inspections were done?---I remember

10:49:36 1 doing an inspection of the Source Development Unit sources
10:49:43 2 at the HSMU.
10:49:45 3
10:49:45 4 Is this - - - ?---But whether that is, aligns with the
10:49:49 5 quarterly requirements or not, I'm not sure. Obviously
10:49:52 6 this process started before I arrived.
10:49:55 7
10:49:56 8 You speak at paragraph 27 of attending at the HSMU on 16
10:50:01 9 May 2006, is that right?---Yes.
10:50:06 10
10:50:06 11 Where you conduct a review of files?---Yes.
10:50:09 12
10:50:10 13 And one of those files was Ms Gobbo's file?---Yes.
10:50:13 14
10:50:15 15 And there's reference in your diary to a document that's
10:50:19 16 produced by a person we know as Ms Lane?---Yes.
10:50:24 17
10:50:39 18 This Biggin document, is this something that's directed to
10:50:43 19 you or is this something - is this something you're meant
10:50:47 20 to sign off on or does this go up the line?---Can we go to
10:50:52 21 the bottom?
10:50:53 22
10:50:53 23 Sure, sure?---I see that it's directed to me.
10:51:01 24
10:51:02 25 Yes?---As the - - -
10:51:06 26
10:51:07 27 So the distribution and authority list?---Yes.
10:51:09 28
10:51:09 29 Is to you and the officer-in-charge?---Yes.
10:51:13 30
10:51:15 31 But it's been asked for by Commander Moloney, presumably
10:51:21 32 will it also go to him?---Yes, if he's asked for it or the
10:51:28 33 result of it would have to go to him, yes.
10:51:29 34
10:51:30 35 We've seen dissemination lists previously of similar
10:51:38 36 documents which might only have your name down the bottom
10:51:43 37 but then it's disseminated further through the
10:51:46 38 organisation?---Yes.
10:51:47 39
10:51:48 40 With an audit trail of who gets it?---Yes.
10:51:50 41
10:52:07 42 The information that I've discussed with you in terms of
10:52:10 43 what occurred through that Purana investigation and the
10:52:13 44 arrests that they were making, and I might say Ms Gobbo
10:52:18 45 represented at least three people in the course of those
10:52:20 46 arrests but turned up to provide advice to three different
10:52:24 47 people in the course of those arrests. If that information

10:52:30 1 had been contained within this audit presumably you would
10:52:35 2 have done something about it?---If it was an unanswered
10:52:41 3 question arising out of the audit the answer would have had
10:52:45 4 to have been sought, yes.
10:52:46 5
10:52:46 6 If it became clear, if this was an adequate audit and the
10:52:53 7 person conducting this audit knew that information, knew
10:52:56 8 these are some extra risks that we hadn't known before and
10:53:01 9 look what's happened, he ought to have put those in this
10:53:04 10 audit, do you agree? Biggin, if he knew those things,
10:53:13 11 ought to have put those things in the audit?---Unless he
10:53:18 12 knew that the issue had been addressed, yes.
10:53:21 13
10:53:21 14 Well, you're someone that's in charge of identifying
10:53:29 15 deficiencies in policy, is that right? Practice and
10:53:35 16 policy. That's one of your roles, we went through it
10:53:38 17 yesterday?---Deficiencies in process with regards to - - -
10:53:40 18
10:53:41 19 In relation to the management of informers?---Yes, so
10:53:44 20 process, not policy.
10:53:45 21
10:53:46 22 If you identified deficiencies in that process or
10:53:50 23 deficiencies with the risks that are being identified, you
10:53:54 24 would do something about it?---Yes.
10:53:56 25
10:53:57 26 It might involve changing policies in relation to informer
10:54:01 27 management?---Yes, that's correct.
10:54:02 28
10:54:05 29 Would you agree that if the author of this document knew
10:54:10 30 what had occurred, knew about those risks, knew those had
10:54:14 31 eventuated, he ought to have put those in this
10:54:24 32 document?---If they weren't reported or recorded in another
10:54:28 33 way, yes.
10:54:28 34
10:54:29 35 Well, in what other way might they have recorded or
10:54:33 36 reported them? You mean in a separate document?---If they
10:54:35 37 were in a separate document.
10:54:36 38
10:54:37 39 To you so that something could be done about it?---No, it
10:54:42 40 may have been that a separate document was created for the
10:54:45 41 Crime Department.
10:54:46 42
10:54:48 43 Then how would the informer management policy then be,
10:54:54 44 which is under a different department, administered under a
10:54:58 45 different department, in your department, how would that
10:55:01 46 then be affected, how could it be fixed if you weren't made
10:55:07 47 aware of these risks and what was going on?---Once - so

10:55:11 1 once the problem, if we could refer to it as that, had been
10:55:15 2 addressed, then - and the outcome known and then it was
10:55:20 3 identified that policy needed, further policy needed to be
10:55:24 4 introduced or existing policy amended the file would then
10:55:28 5 come back to me.
10:55:29 6
10:55:31 7 Would you expect that if Mr Biggin had have known those
10:55:36 8 events had occurred, that he would have put those in this
10:55:42 9 audit about Ms Gobbo? It's specifically an audit about
10:55:46 10 Ms Gobbo's file and her treatment and her handling. Would
10:55:51 11 you expect him to have put those things in this
10:55:54 12 report?---Yes.
10:55:55 13
10:55:56 14 And you would have done something about it if you had have
10:56:00 15 known? You would have made sure that the appropriate
10:56:03 16 people were dealing with it?---Yes, so once - yes, that's
10:56:08 17 correct.
10:56:08 18
10:56:12 19 Were you aware that in June of 2006 there was another audit
10:56:16 20 on SDU files by Lucinda Nolan?---Yeah, I read that
10:56:25 21 recently, yes.
10:56:26 22
10:56:27 23 Are you aware whether or not she was steered away from
10:56:31 24 auditing Ms Gobbo's file?---Not that I'm aware of.
10:56:36 25
10:56:38 26 Are you aware that she was told there was no need because
10:56:40 27 Mr Biggin had already done an audit?---No.
10:56:45 28
10:56:48 29 Who would have been involved in indicating to Ms Nolan
10:56:56 30 which files should be looked at or shouldn't be looked
10:56:59 31 at?---Most likely the officer-in-charge of the unit.
10:57:06 32
10:57:07 33 Who was?---Sorry, what time was it?
10:57:11 34
10:57:12 35 June of 2006?---I can't recall when, as I said, I think I
10:57:22 36 explained yesterday, I can't recall when we restructured,
10:57:25 37 so it was possibly either an Inspector within the Covert
10:57:30 38 Support Division or Officer White.
10:57:34 39
10:57:35 40 Are you aware of there being any concern in relation to her
10:57:38 41 potentially auditing Ms Gobbo's file and what she might
10:57:43 42 find?---I can't recall anything at this stage.
10:57:50 43
10:57:53 44 The source management log indicates that there was another
10:57:57 45 audit by Superintendent Biggin on 25 June 2007 but the
10:58:06 46 Commission has received no documents in relation to any
10:58:09 47 such audit. The only record of that exists within the

10:58:13 1 source management log. Are you aware that there were other
10:58:18 2 audits or whether there were other audits or not?---I
10:58:22 3 recall auditing the hard copy file after the unit had left
10:58:26 4 my line of control.
10:58:29 5
10:58:29 6 Are there any documents in relation to those audits that
10:58:32 7 you conducted?---I've not been given access to any
10:58:37 8 documents.
10:58:37 9
10:58:37 10 The source management log also indicates another audit by
10:58:41 11 Superintendent Biggin on 31 January 2008, but again there
10:58:45 12 doesn't seem to have been any documents located in relation
10:58:48 13 to such an audit. Would those audits ordinarily be kept on
10:58:53 14 the human source management file?---Yes.
10:59:02 15
10:59:03 16 Where might they have gone if they've gone
10:59:11 17 missing?---Without having access to the files I couldn't
10:59:14 18 say.
10:59:15 19
10:59:22 20 You say in your statement at paragraph 32 that, "Because of
10:59:26 21 the risk associated with the SDU obtaining information from
10:59:29 22 a lawyer, that therefore time would need to be spent by SDU
10:59:36 23 handlers and controllers ensuring that such information was
10:59:39 24 not received or disseminated". So your appreciation of
10:59:48 25 circumstances was that there would need to be time to
10:59:51 26 ensure that whatever information was provided down the line
10:59:58 27 didn't breach duties in relation to her being a
11:00:03 28 lawyer?---Yes.
11:00:03 29
11:00:03 30 Is that right?---Yes.
11:00:04 31
11:00:04 32 What was your understanding of the process of dissemination
11:00:07 33 of information from Ms Gobbo to investigators?---So my
11:00:11 34 understanding was that the handlers would have a contact.
11:00:16 35 The handlers would then reduce the verbal information that
11:00:26 36 was given to them to written words, that would then be
11:00:33 37 disseminated. Now because this related mostly to the
11:00:38 38 Purana Task Force it would, the information would be passed
11:00:44 39 to a particular person at the Task Force.
11:00:46 40
11:00:47 41 So that there would be one person that would receive it, is
11:00:50 42 that what you're saying?---It would be far easier because
11:00:53 43 it's not always possible, but it's far easier if it's
11:00:58 44 coordinated through a single individual, yes.
11:01:00 45
11:01:02 46 The Royal Commission has heard evidence that the practice
11:01:04 47 of dissemination to Mr O'Brien at the Purana Task Force

11:01:09 1 involved hot debriefs where essentially upon receiving the
11:01:13 2 information they would ring Mr O'Brien and just provide him
11:01:17 3 with a download of all the information verbally that they'd
11:01:21 4 just received. Would that be in compliance with your
11:01:25 5 understanding. That seems to be a lot different than your
11:01:30 6 understanding of matters?---If there was information that
11:01:33 7 needed to just be disseminated immediately, it was probably
11:01:38 8 conveyed verbally from the handlers.
11:01:39 9
11:01:40 10 Mr O'Brien says he never got any information other than
11:01:43 11 verbally to his recollection? There may have also been
11:01:50 12 some information reports that went to analysts, but all of
11:01:53 13 his information was always verbal, hot debriefs?---If that
11:01:58 14 was the case, that's the case.
11:01:59 15
11:02:00 16 It doesn't seem that there was any time spent necessarily
11:02:06 17 ensuring complete sanitisation, would you agree, in those
11:02:14 18 circumstances?---Unless they, they gave Mr O'Brien the
11:02:22 19 sanitised version verbally.
11:02:27 20
11:02:30 21 At paragraph 33 of your statement you say your
11:02:34 22 understanding was that the information that Ms Gobbo was
11:02:37 23 providing was gained from socialising and not from
11:02:41 24 client/lawyer relationships?---Yes.
11:02:43 25
11:02:43 26 And your understanding of that was from discussions from
11:02:47 27 the SDU?---Yes, it was a particular discussion that I had
11:02:53 28 in 2006. I've not been able to - - -
11:02:58 29
11:02:58 30 Can you place any time in 2006?---No, no. So my
11:03:01 31 recollection is that it was after the unit had left my line
11:03:05 32 of control, so it had been moved across into Covert
11:03:10 33 Support, and I went down to audit or review the file and
11:03:16 34 when I did that I ended up having quite a detailed
11:03:20 35 discussion with Officer White and I think it was Officer
11:03:29 36 Black, and then it's what they actually described to me
11:03:32 37 that gave me that clear impression.
11:03:34 38
11:03:34 39 So your earlier audit of the file had taken place in May of
11:03:39 40 2006. So this would be some time after mid-2006?---I
11:03:46 41 believe so. I recall attending the actual unit premises to
11:03:50 42 do it.
11:03:50 43
11:03:51 44 Your initial audit had been at HSMU?---Yes.
11:03:53 45
11:03:54 46 Just the file kept there?---Two different approaches. One
11:03:58 47 is the recorded documents that had been forwarded to the

11:04:02 1 Human Source Management Unit. The second time I actually
11:04:05 2 attended at the unit and spoke to some of the members
11:04:08 3 involved.
11:04:09 4
11:04:09 5 Their unit was at a different location?---Yes.
11:04:11 6
11:04:16 7 And you gained the understanding, you say then, of the type
11:04:21 8 of information that they were receiving from Ms Gobbo?---I
11:04:29 9 can't remember the actual - - -
11:04:30 10
11:04:30 11 Or at least confirmed?---I can't remember the actual
11:04:33 12 details of the information being conveyed to me but I
11:04:36 13 remember the way that they were receiving the information
11:04:40 14 from her.
11:04:41 15
11:04:41 16 Did they convey to you that there were any concerns at all
11:04:47 17 in relation to their handling and management of
11:04:54 18 Ms Gobbo?---Yes, it was, it was understood - well I already
11:05:05 19 had an understanding at that stage, but there was a clear
11:05:08 20 understanding that the activity that they were undertaking
11:05:12 21 was very high risk.
11:05:13 22
11:05:13 23 Did they convey to you any concerns that they had in
11:05:17 24 respect of the ethics of what they were doing?---I expect
11:05:31 25 that we would have had, there would have been some
11:05:34 26 conversation about the fact that she was a barrister. I
11:05:38 27 can't recall that specific conversation at this time.
11:05:41 28
11:05:42 29 By mid-2006 Mr White, Mr Smith and a number of the others
11:05:48 30 had participated in conversations with Ms Gobbo where she
11:05:54 31 had described the ethics of what they were doing as fucked,
11:06:00 32 that she'd completed stepped over the privilege line, and
11:06:03 33 things of that nature. Were you made aware of those
11:06:08 34 things?---Not that I can recall.
11:06:09 35
11:06:09 36 If you had been made aware of those things, what would you
11:06:13 37 have done?---Probably in the first instance I would have
11:06:24 38 gone and discussed it with Commander Moloney.
11:06:26 39
11:06:35 40 Would you expect if those members had such conversations
11:06:37 41 with Ms Gobbo that they would have raised it with their
11:06:43 42 line management at least?---Yes, yes.
11:06:52 43
11:06:52 44 It would be part of their ethical obligations as police
11:06:56 45 members, wouldn't it?---Yes, yes.
11:07:01 46
11:07:10 47 In paragraph 20 of your statement you say you weren't aware

11:07:14 1 of any earlier registrations of Ms Gobbo when you commenced
11:07:18 2 at the SID?---That's correct.
11:07:20 3
11:07:22 4 If we can bring up VPL.0100.0121.0155. This might be one
11:07:36 5 of the ones I got the number slightly wrong for.
11:07:48 6
11:07:48 7 COMMISSIONER: I'll just mention the Biggin audit document
11:07:53 8 was Exhibit 277.
11:07:55 9
11:07:57 10 MS TITTENSOR: Thanks Commissioner. If we can go to the
11:08:26 11 .0212. You'll see here, Mr Porter, that this is a memo
11:08:58 12 that's sent through from it seems Ms Lane. Do you see
11:09:08 13 that?---Yes.
11:09:09 14
11:09:10 15 To the officer-in-charge of criminal proceeds. And
11:09:16 16 Ms Lane, the insignia on the right-hand side indicates it's
11:09:21 17 from the Human Source Management Unit?---Yes.
11:09:25 18
11:09:25 19 And that's on 25 October 2007 indicating that on that date
11:09:32 20 the Human Source Management Unit received the following
11:09:36 21 files and there's a number of informer files from the late
11:09:51 22 90s?---Yes, that's correct.
11:09:53 23
11:10:06 24 You would have seen when this document first came up that
11:10:08 25 it had the informer registration when I first asked for
11:10:15 26 this document to be put on the screen?---Yes.
11:10:17 27
11:10:17 28 And we've gone to a page further down the line. This is
11:10:20 29 contained within a file which the metadata names as IMU
11:10:27 30 file. It seems as though this has at some stage been
11:10:33 31 associated with Ms Gobbo's informer file. So if we can
11:10:37 32 just scroll from there. You'll see that it's from the
11:10:48 33 asset recovery informer management file and it gives the
11:10:51 34 number MFG 13 of 99?---Yes.
11:10:55 35
11:10:55 36 The MFG signifies that that's an informer file from the
11:11:01 37 Major Fraud Group at the time?---I would assume so, yes.
11:11:04 38
11:11:05 39 And presumably informer no.13 of 99?---Yes.
11:11:08 40
11:11:09 41 If we can continue to scroll. You'll see there's an
11:11:15 42 assessment there in terms of presumably what that informer
11:11:20 43 was registered in relation to?---Yes.
11:11:23 44
11:11:23 45 The informant was then Detective Senior Constable Jeff
11:11:28 46 Pope?---Yes.
11:11:28 47

11:11:29 1 The target is someone that we know as Solicitor 1?---Yes.
11:11:36 2
11:11:37 3 And it gives an appraisal of the job in relation to
11:11:40 4 Solicitor 1 and the informer having been cultivated who can
11:11:47 5 provide information regarding criminal activities and
11:11:51 6 information provided thus far indicates that the solicitor
11:11:54 7 is involved in criminal offences, including money
11:11:57 8 laundering, theft and possible numerous offences against
11:12:02 9 the Legal Practices Act?---Yes.
11:12:03 10
11:12:04 11 And it talks about a number of properties and so forth. If
11:12:06 12 we can continue moving up. You'll see there there's an
11:12:15 13 investigation plan and that's signed off by Detective
11:12:19 14 Sergeant Segrave?---Yes.
11:12:20 15
11:12:23 16 Continue moving through that. There's some more detail
11:12:29 17 there about de-registration or not - I think at that stage
11:12:34 18 they called it inactive, moving someone from active to
11:12:39 19 inactive?---Yes.
11:12:40 20
11:12:41 21 At some stage it seems as though this has come to be
11:12:45 22 associated with Ms Gobbo's file at the Human Source
11:12:51 23 Management Unit. Do you know how that came to be?---No.
11:12:55 24
11:12:55 25 Do you recall this occurring, becoming aware of her earlier
11:13:02 26 registration from the late 90s?---No. No, it's - my
11:13:11 27 recollection is that all of the old files were collected
11:13:16 28 from around the entire organisation in 2003. So I'm not
11:13:23 29 sure why these were produced then.
11:13:25 30
11:13:26 31 It seems as though they've made their way to the Human
11:13:31 32 Source Management Unit by at least, by October of
11:13:34 33 2007?---Yes.
11:13:34 34
11:13:35 35 At some stage, it's not entirely clear yet to the
11:13:40 36 Commission, it's been associated with Ms Gobbo and put on
11:13:47 37 her informer management file. Is that something that you
11:13:52 38 would have made some investigation of once you became aware
11:13:56 39 of it, had you have known?---Possibly not if it's, if it
11:14:05 40 was just an historical record that that person had been a
11:14:09 41 human source previously, possibly not, no.
11:14:13 42
11:14:14 43 Ought it to have been made known to those handling her at
11:14:20 44 the SDU?---If it was relevant you would expect so, but if
11:14:32 45 it was historical and no longer relevant, perhaps not.
11:14:36 46
11:14:39 47 It seems as though the SDU were never entirely 100 per cent

11:14:43 1 clear about motivations in relation to Ms Gobbo. Might it
11:14:46 2 have been something at least of interest to them in regards
11:14:52 3 to her motivation if she'd previously been an informer and
11:14:56 4 the circumstances of that?---If there was something there
11:15:02 5 that we thought could have assisted the Source Development
11:15:07 6 Unit then you would expect that they would be advised.
11:15:09 7
11:15:23 8 I'll tender those documents, Commissioner. It's a file,
11:15:31 9 perhaps we might make some inquiries about the origin of,
11:15:37 10 so we understand how that file was put together and when.
11:15:40 11 I'm not sure the metadata assists in that regard.
11:15:43 12
11:15:43 13 COMMISSIONER: All right. It seems to be - how would we
11:15:55 14 describe this document?
11:15:56 15
11:15:57 16 MS TITTENSOR: This one is a document on the Informer
11:16:02 17 Management Unit file - sorry, I'm not sure whether we're
11:16:06 18 tendering the whole file otherwise it ought just be - - -
11:16:09 19
11:16:10 20 COMMISSIONER: There's a cover document which is the
11:16:12 21 informer registration reactivation - - -
11:16:14 22
11:16:14 23 MS TITTENSOR: This is the document I took Mr Porter to
11:16:17 24 yesterday.
11:16:18 25
11:16:18 26 COMMISSIONER: Yes.
11:16:18 27
11:16:18 28 MR HOLT: It's 80 pages I'm instructed, if we could be
11:16:21 29 more, pinpoint, if other documents become relevant we can
11:16:27 30 deal with that. We are already making inquiries about that
11:16:31 31 provenance issue for our friend.
11:16:32 32
11:16:28 33 COMMISSIONER: Thank you.
11:16:28 34
11:16:28 35 MS TITTENSOR: I think we wanted to tender the first
11:16:31 36 document we took the witness to yesterday, although it had
11:16:34 37 been tendered before, it had been tendered in a different
11:16:37 38 form and this one had some handwriting on it which
11:16:41 39 Mr Chettle thought might be significant.
11:16:42 40
11:16:43 41 COMMISSIONER: We should tender this one separately.
11:16:47 42 That's the first document, the information - the informer
11:16:54 43 reactivation registration 16 June 05.
11:16:58 44
11:16:59 45 #EXHIBIT RC514A - (Confidential) Informer reactivation
11:16:56 46 registration 16/06/05.
11:17:01 47

11:17:02 1 #EXHIBIT RC514B - (Redacted version.)
11:17:05 2
11:17:05 3 COMMISSIONER: And the second document - - -
11:17:10 4
11:17:10 5 MS TITTENSOR: Is a memo with documents relating to a
11:17:16 6 former registration of Ms Gobbo dated 25 October 2007.
11:17:29 7
11:17:29 8 COMMISSIONER: 13 of 99.
11:17:31 9
11:17:49 10 MS TITTENSOR: I might say there's probably some documents
11:17:52 11 following the ones I've taken the witness to that were part
11:17:55 12 of that memo or attached to that memo as well.
11:18:01 13
11:18:02 14 COMMISSIONER: As informer 13 in 1999.
11:18:06 15
11:17:33 16 #EXHIBIT RC515A - (Confidential) Memo of 25/10/07 and
11:17:38 17 documents relating to Ms Gobbo's
11:17:42 18 registration as informer 13 of 1999.
11:18:08 19
11:18:09 20 #EXHIBIT RC515B - (Redacted version.)
11:18:15 21
11:18:16 22 MS TITTENSOR: Whilst I'm at it, Commissioner, there's
11:18:18 23 another document that I'm told VPL.0100.0132.0168, I'm not
11:18:27 24 sure that that's been downloaded yet. It's a copy of the
11:18:30 25 Biggin audit document that has Mr Porter's signature on it.
11:18:53 26
11:18:54 27 COMMISSIONER: The Biggin audit is Exhibit 277. It was
11:19:00 28 confidential for the time being, I suppose we'll make that
11:19:03 29 A and B. Why don't we make C the document with the
11:19:07 30 signature on it.
11:19:08 31
11:19:08 32 MS TITTENSOR: This also seemingly has at least an audit
11:19:12 33 trail of who that document's been disseminated to as the
11:19:16 34 front page.
35
11:19:23 36 COMMISSIONER: The Biggin audit with the audit trail and
11:19:27 37 signature by Superintendent Mark Porter will be 277C.
11:19:37 38
11:19:37 39 MS TITTENSOR: Just for everyone's benefit at the Bar table
11:19:39 40 that indicates it's gone to, been with Mr Biggin,
11:19:44 41 Mr Porter, Mr White and Mr Smith. That's being shown on
11:20:25 42 the screen now.
11:20:26 43
11:20:26 44 COMMISSIONER: Thank you.
11:20:29 45
46 #EXHIBIT RC277A - (Confidential) Biggin Audit.
47

1 #EXHIBIT RC277B - (Redacted version.)
2
3 #EXHIBIT RC277C - Biggin Audit with Mark Porter's
4 signature.
5
11:20:37 6 MS TITTENSOR: Mr Porter, you will be aware that Victoria
11:20:44 7 Police has obligations of disclosure in relation to charges
11:20:48 8 that it brings?---Yes.
11:20:50 9
11:20:52 10 And, first of all, those obligations are in relation to the
11:20:57 11 service of the hand-up brief, any hand-up brief in relation
11:21:00 12 to charges?---Yes.
11:21:02 13
11:21:03 14 And in essence the hand-up brief will contain the evidence
11:21:07 15 which it's proposed to rely upon in court?---Yes.
11:21:11 16
11:21:12 17 You would also appreciate though that the police have
11:21:15 18 disclosure obligations beyond what's in the hand-up
11:21:19 19 brief?---Yes.
11:21:19 20
11:21:21 21 In relation to material upon which the police don't propose
11:21:26 22 to rely upon but which might be relevant to assist an
11:21:32 23 accused in the conduct of their defence?---Yes, that's
11:21:34 24 correct.
11:21:34 25
11:21:36 26 And that might be so where there was material that would
11:21:41 27 weaken a particular element of an offence?---Yes,
11:21:45 28 exculpatory, yes.
11:21:47 29
11:21:48 30 For example, if the police had evidence that someone else
11:21:50 31 might be the culprit they would be obliged to disclose that
11:21:55 32 evidence to the defence?---Yes.
11:21:56 33
11:21:57 34 Another example might be where it would strengthen a
11:22:04 35 defence available to an accused?---Yes.
11:22:06 36
11:22:07 37 For example, if the police brought a murder charge and they
11:22:10 38 had material which might suggest self-defence?---Yes.
11:22:14 39
11:22:16 40 You would be obliged, you couldn't just sit on that, you'd
11:22:19 41 be obliged to disclose it?---That's correct.
11:22:24 42
11:22:24 43 Where there was material in the possession of the police
11:22:26 44 that would impact upon the credit of a significant witness,
11:22:31 45 the police are obliged to disclose that?---Yes.
11:22:34 46
11:22:36 47 For example, a significant witness in the trial who's being

11:22:42 1 relied upon in terms of their creditworthiness or
11:22:46 2 reliability if they had dishonesty convictions, that would
11:22:51 3 be relevant and should be disclosed?---Yes.
11:22:53 4
11:22:53 5 By way of disclosure?---Yes.
11:22:56 6
11:22:56 7 If the police had material which would affect the
11:23:01 8 admissibility of evidence in the trial, they would be
11:23:05 9 obliged to disclose that?---Yes.
11:23:08 10
11:23:09 11 For example, where the police have evidence suggesting that
11:23:13 12 evidence has been obtained improperly, they would be
11:23:17 13 obliged to disclose that?---Yes.
11:23:19 14
11:23:23 15 Are you aware of any practice that's built up within
11:23:27 16 Victoria Police that disclosure is not made in relation to
11:23:33 17 certain matters unless there's a subpoena issued?---This is
11:23:48 18 - it's probably been a little while since I've been
11:23:51 19 involved in criminal prosecutions but back say ten years
11:24:00 20 ago we would often wait for a subpoena in relation to
11:24:15 21 matters that wouldn't automatically be relevant.
11:24:21 22
11:24:21 23 Right. Was there any discussion or education within
11:24:27 24 Victoria Police about when matters would be relevant and
11:24:30 25 ought to be disclosed or at least advanced with the court
11:24:36 26 as a matter that needed some consideration before
11:24:39 27 disclosure without the need for a subpoena?---I can't
11:24:50 28 recall any education process but the prosecutions division
11:24:56 29 and legal services usually provided that service of
11:25:01 30 advising.
11:25:02 31
11:25:03 32 Who was making the assessment of what was relevant or not
11:25:08 33 to an accused's defence?---It would start with the
11:25:13 34 investigators.
11:25:13 35
11:25:18 36 Would you always wait for investigators to come to you
11:25:21 37 before you - if you knew you had material that would be
11:25:27 38 relevant to a particular investigation, would you always
11:25:29 39 wait for the investigators to come to you before you did
11:25:33 40 anything about it?---Generally, yes.
11:25:35 41
11:25:37 42 Was there ever any occasion where you didn't do that, that
11:25:43 43 you did something off your own bat?---I can't recall, no.
11:25:55 44 Not that I can recall.
11:25:55 45
11:25:59 46 You would appreciate that requiring a subpoena before
11:26:04 47 anything is disclosed means that an accused has to identify

11:26:08 1 a specific issue to be disclosed or a specific matter which
11:26:16 2 might be regarded on a subpoena argument as fishing, but
11:26:20 3 there might actually be some relevant material in there
11:26:23 4 that's not otherwise being disclosed. Do you understand
11:26:27 5 what I mean?---Yes, but my understanding is that those,
11:26:32 6 those requests are, for want of a better description, a
11:26:37 7 shotgun approach to calling all relevant material.
11:26:45 8
11:26:49 9 The defence are unlikely to be able to identify situations
11:26:53 10 precisely where police have improperly obtained evidence,
11:26:58 11 would that be the case, you would agree with that?---Yes.
11:27:09 12 Generally, yes, I would agree with that.
11:27:12 13
11:27:13 14 It would have to rely upon the police appropriately
11:27:17 15 disclosing such matters so that they could be litigated
11:27:21 16 before the court?---Yes.
11:27:22 17
11:27:31 18 There appear to be instances where notes of investigators
11:27:37 19 have been redacted and not provided to the defence in legal
11:27:42 20 proceedings or in proceedings before the court seemingly
11:27:47 21 simply because Ms Gobbo was the legal representative. Were
11:27:50 22 you aware of that practice?---No.
11:27:56 23
11:27:59 24 It appears that there may also have been a practice of
11:28:03 25 employing investigators, certain investigators to do things
11:28:07 26 who weren't going to be on the witness list for a
11:28:10 27 particular matter to undertake a task so that their notes
11:28:16 28 would not be called for and there would be no disclosure of
11:28:19 29 what's gone on. Are you aware of a practice of using
11:28:22 30 investigators in such a way, using certain investigators
11:28:25 31 that are not going to be called as witnesses so that what
11:28:29 32 they do is never going to be revealed?---I'm aware of
11:28:41 33 issues where there's been parallel investigations with
11:28:45 34 different objectives, sometimes through agreement with the
11:28:53 35 Director of Public Prosecutions, but I'm not aware of any
11:28:56 36 specific tasking - - -
11:28:59 37
11:28:59 38 This seems to be a practice on at least one occasion that
11:29:06 39 we've identified where an investigator has undertaken a
11:29:12 40 task involving Ms Gobbo, such investigator presumably not
11:29:20 41 being called as a witness in relation to the matter so her
11:29:25 42 task with Ms Gobbo was never going to be revealed to those
11:29:30 43 accused subsequently potentially contesting proceedings.
11:29:36 44 Now are you aware of those kinds of practices within
11:29:41 45 Victoria Police, that is using investigators in that way to
11:29:45 46 avoid disclosure down the line, to use unrelated
11:29:49 47 investigators so that disclosure down the line is not made?

11:29:54 1 And I'm not just asking about that simple example, but are
11:29:57 2 you aware of that practice within Victoria Police?---Not to
11:30:00 3 avoid disclosure but sometimes to maintain independence.
11:30:07 4
11:30:08 5 COMMISSIONER: Is that a convenient time for the midmorning
11:30:10 6 break?
11:30:11 7
11:30:11 8 MS TITTENSOR: Certainly, Commissioner.
11:30:12 9
11:30:12 10 COMMISSIONER: All right, we'll have a break.
11:30:14 11
11:30:41 12 (Short adjournment.)
13
12:02:39 14 COMMISSIONER: Yes Ms Tittensor.
12:02:40 15
12:02:40 16 MS TITTENSOR: Thanks, Commissioner. Mr Porter, I've taken
12:02:43 17 you through some evidence in relation to some significant
12:02:47 18 arrests that have been made relating to Ms Gobbo's
12:02:51 19 information around about April of 2006?---Yes.
20
12:02:55 21 By February of 2008 there was an application made to change
12:03:00 22 Ms Gobbo's number?---Yes.
23
12:03:02 24 Human source number; is that right?---Yes.
25
12:03:04 26 It was reported to you by that stage that numerous people
12:03:10 27 had been arrested and convicted on the basis of her
12:03:12 28 information?---Yes.
29
12:03:15 30 And that in fact was contained within the memo, I think, to
12:03:21 31 change her number?---Yes.
32
12:03:24 33 It was apparent that from about July or August of 2006 the
12:03:31 34 Purana Task Force were obtaining legal advice in relation
12:03:35 35 to public interest immunity and legal professional
12:03:40 36 privilege matters relating to Milad Mokbel and Carl
12:03:44 37 Williams. Clearly aside from two proceedings within Purana
12:03:51 38 there were various other proceedings that had run?---Yes, I
12:03:55 39 wasn't personally aware where they were up to with regards
12:03:59 40 to legal advice.
41
12:04:00 42 A number of those proceedings had contested, hearings of a
12:04:07 43 contested nature, for example bail applications?---Yes.
44
12:04:10 45 Contested committals and - - - ?---Trials, yes.
46
12:04:14 47 - - - trial proceedings. Some resolved at various stages

12:04:17 1 along the way?---Yes.
2
12:04:22 3 What was the role of the HSMU in that process given
12:04:28 4 Ms Gobbo's involvement as a human source, in terms of
12:04:35 5 obligations of disclosure?---So they would coordinate or
12:04:43 6 could coordinate access to records if required.
7
12:04:51 8 Were there confidential affidavits made in relation to
12:04:55 9 Ms Gobbo's involvement as a human source by the HSMU?---Not
12:05:04 10 that I can recall.
11
12:05:06 12 Who would be responsible for such affidavits in terms of
12:05:12 13 any human source when those matters arose?---The managers
12:05:19 14 of the investigation.
15
12:05:20 16 So the manager of the investigation would arrange for
12:05:24 17 someone to swear a confidential affidavit?---If there was
12:05:33 18 going to be a public interest immunity argument, yes.
19
12:05:36 20 I just want to understand a bit about the process of those
12:05:41 21 matters. Presuming a subpoena is issued or a disclosure
12:05:45 22 obligation arises on the face of it?---Yes.
23
12:05:48 24 What happens? It's a subpoena that's issued to the Chief
12:05:55 25 Commissioner of Police?---Yes, so the material is collated
12:05:58 26 so that the Police Force understands what the material is,
12:06:04 27 and then a decision is made or independent legal advice is
12:06:08 28 obtained with regards to what needs to be kept secret and
12:06:14 29 what doesn't.
30
12:06:16 31 We're talking generally in relation to disclosure about any
12:06:22 32 informer?---Yes.
33
12:06:23 34 The subpoena comes in to the Chief Commissioner. The
12:06:29 35 investigator is notified of the subpoena?---Yes, or we
12:06:35 36 refer to the investigator or the relevant investigator as
12:06:38 37 the informant.
38
12:06:39 39 Yes. So the informant is notified of the subpoena and
12:06:44 40 presuming if there's an informer involved, a human source
12:06:48 41 involved, are you automatically involved in that process as
12:06:53 42 well?---My advice might be sought. Sometimes, you know, if
12:06:59 43 it's quite routine my assistance may not be required.
44
12:07:05 45 When I say you, it was more of a Royal - so the Human
12:07:10 46 Source Management Unit?---Yes.
47

12:07:11 1 So if an informer or human source is involved, the
12:07:15 2 informant is advised. As a matter of course the Human
12:07:21 3 Source Management Unit would be advised because they hold
12:07:22 4 the material?---Yes, that's correct.
5
12:07:23 6 Who does that, is that someone - the Subpoena Management
12:07:29 7 Unit?---The Subpoena Management Unit manages the
12:07:32 8 dissemination of the subpoena once it's been received by
12:07:35 9 the organisation.
10
12:07:35 11 Yes?---The collation of the material is usually overseen by
12:07:41 12 the informant but it may be that a separate investigator is
12:07:45 13 allocated at work.
14
12:07:48 15 In such a case where there's a human source involved and
12:07:52 16 the material that is potentially to be disclosed is held by
12:07:58 17 the Human Source Management Unit, who's responsible for the
12:08:02 18 collation of that material so that advice might be
12:08:05 19 taken?---The assembly of the material would be coordinated
12:08:12 20 by the Human Source Management Unit and then the unit would
12:08:21 21 then liaise with the informant or an allocated investigator
12:08:26 22 and then we would, if required, be seeking independent
12:08:30 23 legal advice and representation if required.
24
12:08:34 25 Assuming there's a subpoena that's been issued, that's
12:08:37 26 occurred. You've assembled the material, you're liaising
12:08:41 27 with the investigator?---Yes.
28
12:08:43 29 A decision is made about whether there is an appropriate or
12:08:50 30 there might be an appropriate claim of public interest
12:08:52 31 immunity?---Yes.
32
12:08:55 33 And to do that you need legal advice?---Yes, about whether,
12:09:00 34 you know, a claim is justified, that's correct.
35
12:09:03 36 Right. So then you get that legal advice and the legal
12:09:08 37 advice is either there is no appropriate claim of public
12:09:15 38 interest immunity on the basis of this material that you've
12:09:17 39 told me about or your instructions, or it's, yes, we do and
12:09:21 40 we need a confidential affidavit and off we go to
12:09:24 41 court?---Correct, yes.
42
12:09:30 43 How many times was the material in relation to Ms Gobbo
12:09:34 44 collated for such a purpose by the HSMU?---I'm only aware
12:09:40 45 of once.
46
12:09:41 47 And when was that?---2010.

1
12:09:45 2 What was that for?---Either the Petra Task Force or the
12:09:53 3 Briars Task Force, one of the two.
4
12:09:55 5 Was that the committal in relation to Paul Dale?---Yes.
6
12:10:01 7 You would have been aware that prior to that period there
12:10:05 8 were a substantial number of contested bail applications,
12:10:16 9 committals, proceedings in relation to matters where
12:10:18 10 Ms Gobbo had been a human source?---Yes.
11
12:10:20 12 You would have been aware presumably that there were
12:10:24 13 subpoenas issued in such matters?---Not necessarily, no.
14
12:10:30 15 If subpoenas were issued in such matters seeking
12:10:34 16 disclosure, or in any case you were aware that there might
12:10:40 17 be matters, regardless of a subpoena, that ought to be
12:10:42 18 disclosed and then we undertake that same process, were you
12:10:47 19 not questioning what was going on, why we're not collating
12:10:52 20 this material for the purposes of disclosure and getting
12:10:55 21 any advice?---No, I don't recall that I ever did.
22
12:11:01 23 Were there any questions at all being asked about this
12:11:05 24 material being called upon in any of these gangland
12:11:10 25 contests that were occurring?---I can't say definitely no.
12:11:21 26 I just can't recall any questions at this time.
27
12:11:23 28 Where such collation of material occurred for the purposes
12:11:27 29 of legal advice and court proceedings, where would that be
12:11:32 30 recorded? Would where the Commission go to see that had
12:11:38 31 occurred within the HSMU?---In the HSMU records.
32
12:11:43 33 Which records?---The register itself.
34
12:11:52 35 Are you saying Ms Gobbo's informer file or is it a subpoena
12:11:58 36 register that the - - - ?---Sorry, sorry, in the informer
12:12:00 37 file, yes.
38
12:12:01 39 So if there had have been any such collation of material,
12:12:08 40 there'd been a subpoena directed towards material relating
12:12:12 41 to Ms Gobbo, it should be on that informer file?---Yes.
42
12:12:20 43 Do you know approximately how thick the informer file of
12:12:23 44 Ms Gobbo was, or was it a completely electronic
12:12:33 45 file?---Sorry - so we started off prior to 2006 with some
12:12:38 46 hard copy records. With the development of the Informer
12:12:43 47 Management Unit and at the same time the development of the

12:12:46 1 Source Development Unit there was, for want of a better
12:12:49 2 term, an interim system, a local system or a program that
12:12:52 3 was used to record the information and then later
12:12:56 4 everything was moved to a central system called Interpose.
12:13:03 5 So it may have been that there was material on the interim
12:13:07 6 system and material in Interpose.
7
12:13:15 8 In relation to Ms Gobbo's file would the subpoenas
12:13:21 9 themselves be kept within her file, wherever that was
12:13:25 10 recorded?---No, I would imagine that the subpoenas would be
12:13:29 11 kept with the brief against the defendant that caused the
12:13:35 12 subpoena to be issued.
13
12:13:38 14 Presumably the Human Source Management Unit would get a
12:13:42 15 copy so it would know the nature of the material it was to
12:13:46 16 compile?---Possibly, or the nature of the material being
12:13:52 17 requested would be conveyed to us by the investigator that
12:13:55 18 held the subpoena.
19
12:13:55 20 By way of email?---Oh, it could be direct approach.
21
12:14:03 22 But there ought be some record upon Ms Gobbo's file that
12:14:07 23 there's material being called upon for a proceeding?---And
12:14:12 24 the fact that the file was being accessed for that purpose.
25
12:14:15 26 You would expect, given a number of contested hearings
12:14:19 27 prior to Mr Dale's matter in 2010, that such an undertaking
12:14:27 28 occurred a number of times before then, that there was
12:14:32 29 thought given to and advice taken about disclosure of
12:14:38 30 Ms Gobbo's role a number of times before Paul Dale's matter
12:14:41 31 in 2010?---It could have been. I can't specifically
12:14:47 32 recall. The only one that I recall through checking my
12:14:52 33 diaries more recently was the once in 2010.
34
12:14:56 35 Do you know whether the question of Ms Gobbo's file or
12:15:03 36 records being called upon for the purposes of disclosure
12:15:06 37 has been examined for the purpose of the Royal Commission?
12:15:14 38 Are you aware?---No, I'm sorry, yeah.
39
12:15:30 40 In terms of the Commission obtaining an understanding of
12:15:35 41 when that process occurred, when her file was called upon
12:15:41 42 or aspects of it or information from it for a court
12:15:44 43 proceeding, what does one do, where does one go?---To the
12:15:53 44 human source file.
45
12:15:57 46 There should be a record on that file which indicates
12:15:59 47 whenever there's been a court proceeding where these

12:16:04 1 documents are being called for?---Yes.
2
12:16:13 3 You've got a - is your recollection in terms of it being
12:16:18 4 called for for the Dale prosecution an independent
12:16:23 5 recollection that you've got or is that by virtue of the
12:16:25 6 fact that in preparation for the Royal Commission you've
12:16:29 7 seen a document relating to that?---So, no, I didn't - when
12:16:36 8 I first prepared my statement I did not have an independent
12:16:40 9 recollection of it. I was then shown an email trail that
12:16:47 10 then reminded me of the fact that it had occurred and then
12:16:52 11 I went to my diary and I actually found a diary entry in my
12:16:57 12 official diary that indicated that.
13
12:17:07 14 Mr White gave some evidence at transcript 4066. He was
12:17:13 15 being asked some questions in relation to a report he'd
12:17:16 16 received from a handler about a conversation the handler
12:17:20 17 had relating to the committal of Milad Mokbel,
12:17:25 18 okay?---Right.
19
12:17:28 20 Mr White's notes suggested that the conversation was had
12:17:33 21 and that they might get away with redacting material if it
12:17:36 22 was in close proximity to other material which would be
12:17:39 23 legitimately redacted. They were talking about potentially
12:17:45 24 redacting notes. Are you aware of any involvement of the
12:17:48 25 SDU in advice to investigators as to what to write in their
12:17:54 26 notes, how to redact their notes?---No.
27
12:17:59 28 What do you say as to the appropriateness of
12:18:10 29 that?---Without seeing it all I would say that the
12:18:14 30 appropriateness or the defensibility under public interest
12:18:21 31 immunity for every particular piece of information needs to
12:18:23 32 stand on its own.
33
12:18:27 34 Do you say it's inappropriate because you write down what
12:18:31 35 you write down and, "If we don't disclose it because of PII
12:18:34 36 that's a matter for the court"?---Yes.
37
12:18:42 38 It's important that police notes are transparent and that
12:18:46 39 they're not selective, would you agree with that?---So all
12:18:53 40 - sorry - - -
41
12:18:56 42 It's appropriate that what police write in their notes
12:19:00 43 is - - -?---Is shown to the court for the court to make the
12:19:04 44 decision as to whether it can be - - -
45
12:19:06 46 It's accurate, it's transparent, things aren't withheld
12:19:09 47 from the notes for the purposes so they can't be disclosed

12:19:14 1 down the line, you would agree with that?---Yes.
2
12:19:18 3 You should write down transparently what occurred and,
12:19:22 4 "Whether that's to be disclosed, if we have a problem with
12:19:24 5 that being disclosed for public interest reasons, the court
12:19:28 6 makes that decision"?---That's correct, yes.
7
12:19:45 8 Mr White also referred to the responsibility for redactions
12:19:49 9 being made to notes and claims of public interest immunity
12:19:52 10 belonging to investigators and the HSMU. It indicates that
12:19:59 11 the responsibility for disclosure insofar as their work was
12:20:06 12 concerned was not at all undertaken by the SDU. What's
12:20:10 13 your understanding of the SDU's involvement in those
12:20:15 14 matters when it came to matters of disclosure?---I would
12:20:22 15 expect that at least advice would be provided by the SDU
12:20:26 16 members to provide context around the notes so that, you
12:20:34 17 know - sorry, the investigators and the Human Source
12:20:40 18 Management Unit could assess whether, you know, disclosing
12:20:44 19 a certain thing was going to disclose something about the
12:20:48 20 human source or something about police methodology and so
12:20:51 21 on.
22
12:20:52 23 The SDU are intimately involved with the detail and know
12:20:56 24 the context of certain matters and the HSMU are involved in
12:21:00 25 the process but aren't across all the facts, so the SDU
12:21:05 26 thereby need that involvement, is that what you're
12:21:08 27 saying?---Yes, to undertake that activity correctly you
12:21:12 28 generally need a context for the notes that you're reading.
29
12:21:22 30 Are you aware of whether the SDU in undertaking that task
12:21:28 31 were essentially bypassing HSMU in terms of PII discussions
12:21:35 32 with investigators so that they were having direct
12:21:38 33 discussions with investigators, the legal advice was being
12:21:42 34 taken as to PII issues without the knowledge of the
12:21:51 35 HSMU?---That may have occurred in some circumstances. I
12:21:59 36 can say that the expertise of the Source Development Unit
12:22:06 37 was at least equal to the Human Source Management Unit in
12:22:09 38 that respect. So if the Source Development Unit handler
12:22:14 39 was advising the informant or the investigator as to what
12:22:20 40 needed to be redacted or not, I would have confidence in
12:22:23 41 their assessment.
42
12:22:24 43 Would you be surprised if it was the case that up until the
12:22:30 44 Paul Dale disclosure in 2010 that investigators, Purana
12:22:39 45 investigators, had not disclosed to their own legal counsel
12:22:45 46 Ms Gobbo's use as a human source? They'd never taken any
12:22:58 47 advice?---I would be surprised if nobody - if the fact that

12:23:02 1 a human source had not been involved. I mean it's possible
12:23:05 2 but it would be surprising but not necessarily the
12:23:09 3 identification of the human source.
4
12:23:16 5 The fact that a lawyer was being used as a human source and
12:23:20 6 that issues had arisen in relation to her representing
12:23:22 7 people that Purana were charging and there being subsequent
12:23:26 8 claims for material about her informer file, would you be
12:23:31 9 surprised that no legal advice was ever taken by
12:23:34 10 investigators at Purana in relation to those
12:23:40 11 matters?---Yes.
12
12:23:48 13 In relation to - you're aware of the Petra Task Force I
12:23:55 14 take it?---Yes.
15
12:23:56 16 That that was a Task Force established to investigate the
12:24:00 17 murder of Terrence and Christine Hodson?---Yes.
18
12:24:03 19 And that the OPI were involved with Victoria Police in that
12:24:06 20 investigation?---I believe so, yes.
21
12:24:15 22 I think you say that there was a request upon the Human
12:24:19 23 Source Management Unit, you say that at paragraph 35 of
12:24:21 24 your statement, for some assistance in relation to that
12:24:24 25 investigation?---Yes.
26
12:24:30 27 So you would have had an understanding of what that Task
12:24:34 28 Force was about from that time certainly?---Yes.
29
12:24:38 30 2 May 2007?---Yes.
31
12:24:42 32 In around the middle of that year, 2007, an issue arose in
12:24:51 33 relation to Ms Gobbo being summoned to the OPI to give
12:24:55 34 evidence which related to that investigation. Were you
12:24:58 35 made aware of that at the time?---I can't recall being made
12:25:01 36 aware of it. I've since read about it in recent times but
12:25:04 37 I can't recall it occurring.
38
12:25:08 39 Would you expect as the Central Source Registrar that you
12:25:12 40 should have been made aware of that issue?---Yes, if it
12:25:17 41 threatened her function as a human source, yes.
42
12:25:21 43 You understood that at compulsory hearings often questions
12:25:26 44 are asked, or you would understand that questions could
12:25:30 45 certainly be asked at such a hearing which might compromise
12:25:34 46 her role as a human source?---Yes.
47

12:25:39 1 Were you aware that the highest levels of Victoria Police,
12:25:43 2 or certainly up to I think by that stage Deputy
12:25:48 3 Commissioner Overland, was involved in discussions as to
12:25:50 4 how the risk of that process might occur with
12:25:57 5 Ms Gobbo?---Not in - this is 2008, sorry?
6
12:26:01 7 Mid-2007?---Mid-2007. I was certainly aware of it in 2009.
12:26:12 8 I don't clearly recollect that I knew that earlier on.
9
12:26:22 10 If we can just place on the screen, please,
12:26:31 11 VPL.0010.0001.0001 at p.16. Perhaps just on the witness's
12:27:28 12 screen, thanks. Do you understand this is another issue
12:27:43 13 cover sheet prepared by Superintendent Biggin?---Yes.
14
12:27:46 15 And it seems that there's been a discussion and he's been
12:27:57 16 directed by Deputy Commissioner Overland to pass on the
12:28:08 17 identity of certain human sources, including Ms Gobbo; is
12:28:13 18 that right?---Yes.
19
12:28:15 20 That's to Petra Task Force?---Yes.
21
12:28:19 22 Of interest to Petra Task Force. If we scroll down. That
12:28:33 23 document indicates that Ms Gobbo was a barrister by
12:28:38 24 occupation?---Yes, if you go back up, yes.
25
12:28:43 26 If we went back up?---Yes.
27
12:28:45 28 It gives her name and details?---Yes.
29
12:28:48 30 It indicates that that request has been discussed with
12:28:53 31 yourself?---Yes.
32
12:28:56 33 And that's to be placed on her human source file?---Yes.
34
12:29:08 35 The distribution list, if we keep on going, indicates down
12:29:14 36 the bottom - no, sorry, back - yes. So it's been
12:29:21 37 distributed to the Commander of Intelligence and Covert
12:29:27 38 Services Department?---Yes.
39
12:29:29 40 Do you know whose that signature is?---Dannye Moloney's.
41
12:29:35 42 Then it also indicates that that's been distributed to
12:29:39 43 Mr Ashton at the OPI?---Yes.
44
12:29:46 45 Mr Ashton at that stage is being given Ms Gobbo's details
12:29:51 46 as a human source and being told she's a barrister?---Yes.
47

12:29:57 1 If we follow on to the next document. Further to that last
12:30:07 2 document there's been a request - and the last document was
12:30:14 3 dated 1 August 2008 and this document is 13 August 2008 -
12:30:18 4 there's a request by Mr Ashton at the OPI for the telephone
12:30:21 5 numbers of the human sources?---Yes.
6
12:30:27 7 So you're at least aware by this stage I take it that there
12:30:31 8 was OPI involvement in that investigation?---Yes.
9
12:30:45 10 You became aware at some stage that there was a view to
12:30:49 11 using Ms Gobbo as a witness?---Yes.
12
12:30:55 13 Do you have a view as to using a human source as a
12:31:00 14 witness?---Yes.
15
12:31:01 16 What is that view?---You shouldn't do it.
17
12:31:04 18 Why?---Because it places the human source at greater risk
12:31:09 19 of being revealed as a source.
20
12:31:13 21 And you say that because as soon as they make a statement
12:31:17 22 or give evidence in a court they're going to be asked
12:31:20 23 questions about how they came to be a witness?---Yes.
24
12:31:24 25 And almost invariably that's going to reveal that they've
12:31:27 26 had contact with the police before in the lead-up?---Yes.
27
12:31:33 28 And invariably if they've had contact with the police in
12:31:40 29 relation to the very subject matter that they are giving
12:31:42 30 evidence about, that is likely to raise an obligation of
12:31:45 31 disclosure?---Yes.
32
12:31:47 33 So even before they come to give their evidence the police
12:31:50 34 will have an obligation to disclose that material that came
12:31:54 35 before?---That's correct.
36
12:31:58 37 Now it's apparent that there were particularly serious
12:32:00 38 discussions as to this occurring within Victoria Police
12:32:03 39 from around early December 2008. If we can go to the ICRs,
12:32:11 40 please, p.754. This will be the 2958 ICRs. This date here
12:32:40 41 by the way - so if you can scroll down. The date of this
12:32:45 42 entry that I'm taking you to, Mr Porter, is 4 December 2008
12:32:52 43 and you'll see there under the heading of "Source
12:32:55 44 management", "Discuss Paul Dale Operation Petra issue with
12:32:59 45 controller White from Deputy Commissioner Overland. Wants
12:33:07 46 human source as a witness to discuss with Superintendent
12:33:11 47 Biggin tomorrow am"?---Yes.

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Then if we go to p.756. You'll see up the top there, "Source management. Advise controller White re risks if human source becomes involved as a witness in Operation Petra. The controller is briefed prior to the meeting with Superintendent Biggin". It there goes through a list of various risks that at least the handler has identified overnight in relation to that proposition, do you see that?---Yes.

The risk of her - the first one, the risk of human source exposure as a source?---Yes.

The obvious one. "Risk to organisation if long-term source role is exposed equals perception of passing on privileged information and police using the same"?---Yes.

"Risk of Royal Commission into source handling by SDU as a result of above"?---Yes.

If we go down a little. It says, "Target Dale will claim all previous conversation with human source were privileged"?---Yes.

And in relation to that, it's noted that the SDU certainly had material relevant to any such claim at that time?---Yes.

If we go down further to the last couple of entries. "Jeopardise future prosecutions if human source role divulged, mostly Mokbel and spin offs. Leave previous convictions open to claims of being unsafe because of human source involvement/privilege"?---Yes.

The material then indicates that following that there's a meeting with Deputy Commissioner Overland, Superintendent Biggin, controllers White and Black and handler Smith. In the ICR it's clearly recorded that Mr Overland wanted Ms Gobbo as a witness, he'd conveyed that to White the previous night and he says he's aware of the consequences, although the handler doesn't believe that that's the case. In the source management log for that date it's apparent that Mr Overland, from that entry, "Mr Overland made clear that Ms Gobbo's value as a witness was more important than perceived issues" and, in addition, "A decision was made that it was preferable for Petra to deploy Gobbo in case it became evidentiary". Do you understand what that would

12:36:09 1 mean?---Yes, they were potentially tasking her as a
12:36:15 2 witness.
3
12:36:15 4 So they would get a different unit of Victoria Police to
12:36:18 5 task her so that it might avoid disclosure by the SDU, or
12:36:28 6 from the SDU?---Sorry, you jumped there. Sorry, I missed
12:36:37 7 that connection, sorry.
12:36:38 8
12:36:39 9 A decision was made that it was preferable for Petra to
12:36:43 10 deploy Gobbo in case it became evidentiary. I'd suggest
12:36:47 11 that such a decision would be made in order to avoid
12:36:53 12 disclosure of her involvement with the SDU?---Yes, yes.
13
12:37:01 14 Mr White's diary, corresponding diary entry, indicates,
12:37:06 15 "Agree deployment of human source to be done by Petra to
12:37:09 16 isolate re Dale from SDU in order to protect historical
12:37:13 17 relationship with SDU and discovery should human source
12:37:16 18 become a witness against Dale", so that seems to make that
12:37:21 19 proposition clear?---Yes.
20
12:37:23 21 It would be clear though to you if SDU held relevant
12:37:27 22 material it would still be disclosable, any disclosure
12:37:32 23 obligation is not simply to Petra, it would be on Victoria
12:37:37 24 Police as a whole?---If it related to what - - -
25
12:37:43 26 Sorry - - - ?---- - - the subject of the investigation or
12:37:46 27 the prosecution, yes.
28
12:37:47 29 Yes. Well, prior to even Ms Gobbo being tasked it's
12:37:52 30 apparent that they're contemplating that she's going to
12:37:58 31 claim that she had a lawyer relationship, or that Mr Dale
12:38:00 32 would claim he had a legal relationship with Ms Gobbo and
12:38:03 33 the SDU already had material in relation to such a
12:38:06 34 relationship?---Yes.
35
12:38:10 36 On 7 December, a couple of days later, 2008, Ms Gobbo in
12:38:15 37 fact taped a conversation with Mr Dale?---I believe so. I
12:38:23 38 obviously didn't have any knowledge of it at that time.
39
12:38:28 40 No. If we can then bring up, perhaps just on the limited
12:38:34 41 screens - the first one we might be able to bring up -
12:38:39 42 VPL.0002.0001 - - -
43
12:38:44 44 COMMISSIONER: Have the other documents been tendered
12:38:47 45 previously, the issue cover sheet of 1 August?
12:38:51 46
12:38:51 47 MS TITTENSOR: No, I'll tender those issue cover sheets,

12:38:54 1 Commissioner. Thank you for reminding me.
2
12:38:58 3 COMMISSIONER: There were two, one of 1 August and 13
12:39:01 4 August, is that right?
12:39:02 5
12:39:02 6 MS TITTENSOR: Yes.
12:39:04 7
12:39:06 8 #EXHIBIT RC516A - (Confidential) Issue cover sheet
12:39:07 9 01/08/08.
12:39:07 10
12:39:08 11 #EXHIBIT RC516B - (Redacted version.)
12:39:12 12
12:39:14 13 #EXHIBIT RC517A - (Confidential) Issue cover sheet
12:39:17 14 13/08/08.
12:39:17 15
12:39:18 16 #EXHIBIT RC517B - (Redacted version.)
12:39:24 17
12:39:24 18 MS TITTENSOR: VPL.0002.0001.1607. You'll understand that
12:39:36 19 there's a number of documents around this time, this is the
12:39:41 20 - I'm going to the 31 January 2008 briefing note by
12:39:44 21 Mr Black which had attached to it an issue cover sheet by
12:39:49 22 Mr Biggin and at the front of it, this is the sort of audit
12:39:55 23 trail or the list of people that that document or those two
12:39:58 24 documents are being sent to; is that right?---Yes.
25
12:40:03 26 So ultimately those two documents are provided to - or
12:40:09 27 Mr Biggin does the issue cover sheet. He sends it to the
12:40:12 28 Commander of Intelligence and Covert Support
12:40:16 29 Department?---Yes.
30
12:40:16 31 That's Mr Moloney?---No, I think at that time that was me,
12:40:24 32 and then Mr Moloney was then the Assistant Commissioner of
12:40:29 33 the Crime Department.
34
12:40:30 35 So Mr Moloney's now Assistant Commissioner of Crime. He
12:40:36 36 seems to get it and he forwards it to Deputy Commissioner
12:40:39 37 Overland?---Yes.
38
12:40:40 39 In relation to Petra steering committee
12:40:43 40 consideration?---Yes.
41
12:40:44 42 Do you know who at the time was on the Petra steering
12:40:47 43 committee?---Only - I was confident that Mr Overland was on
12:40:53 44 it and I'm not, I wouldn't be confident as to who the other
12:40:58 45 members of the committee were.
46
12:41:02 47 If we can go to the next document, it's 1608. You see at

12:41:12 1 the top of that document the issue "Human source making
12:41:16 2 statement to Petra Task Force", at the very top, the
12:41:23 3 issue?---Yes.
4
12:41:25 5 It indicates in the second paragraph that it attaches a
12:41:29 6 briefing paper by [REDACTED] Black which
12:41:34 7 sets out a strategic analysis on Ms Gobbo based on a SWOT
12:41:41 8 analysis?---Yes.
9
12:41:42 10 It notes that if Ms Gobbo signs a statement and becomes a
12:41:47 11 witness it was an issue for the source and the
12:41:50 12 investigators?---Yes.
13
12:41:52 14 In the comments down further it notes, "There are a number
12:41:58 15 of organisational risks to Victoria Police. The SDU are
12:42:01 16 prepared to expand on these to Task Force
12:42:05 17 management"?---Yes.
18
12:42:06 19 "The purpose of this paper is to ensure that decision
12:42:09 20 makers are in possession of relevant information to allow
12:42:14 21 proper decisions to be made. Decisions made today may have
12:42:15 22 long-term implications for Victoria Police"?---Correct.
23
12:42:19 24 That was signed by you on 5 January?---Yes.
25
12:42:29 26 And you're Acting Commander of the Intelligence and Covert
12:42:34 27 Support Department?---Yes.
28
12:42:35 29 If we can then go to the next document, which is at - - -
30
12:42:39 31 COMMISSIONER: Are you wanting to tender any of these?
12:42:42 32
12:42:43 33 MS TITTENSOR: I'm not sure if they've already been
12:42:45 34 tendered.
35
12:42:46 36 COMMISSIONER: They have already been tendered?
12:42:47 37
12:42:48 38 MR HOLT: No, this one hasn't been.
12:42:49 39
12:42:50 40 MS TITTENSOR: I might tender these as a bundle, they go
12:42:52 41 together, these three documents.
42
12:42:55 43 COMMISSIONER: Okay.
12:42:55 44
12:42:56 45 MS TITTENSOR: This is the Black briefing note to Mr Biggin
12:43:00 46 which is the subject of the issues cover sheet and sent all
12:43:04 47 the way to Deputy Commissioner Overland; is that right?---I

12:43:14 1 can't remember if the hard copy ever made it to the
12:43:19 2 committee or we conveyed the contents of it to the
12:43:22 3 committee.
4
12:43:24 5 Well, Mr Biggin's issues cover sheet said it attached a
12:43:28 6 briefing paper?---Yes.
7
12:43:32 8 That, according to the dissemination list, went to
12:43:35 9 Mr Moloney and Deputy Commissioner Overland?---Yes, I would
12:43:47 10 assume that it probably did go, yes.
11
12:43:57 12 A SWOT analysis is essentially strengths, weaknesses,
12:44:01 13 opportunities and threats; is that right?---Correct.
14
12:44:03 15 I'll just take you to a couple of them. Under weaknesses
12:44:08 16 there, the first one is, "Possible OPI government review
12:44:13 17 into legal and ethical implications"?---Yes.
18
12:44:17 19 And then the fourth one down - sorry, the fifth one down at
12:44:25 20 the top of the next page, "Human source credibility,
12:44:30 21 acquaintances, criminal associates and sexual
12:44:34 22 relationships". This is all part of an assessment of what
12:44:37 23 the weaknesses are of using her as a witness?---Yes.
24
12:44:42 25 Instead of retaining her as a source?---Yes.
26
12:44:45 27 And then a number down from them it says, "Human source
12:44:48 28 prior inconsistent statements (verbal) - SDU re
12:44:56 29 relationship with Dale and failure to disclose the bogus
12:45:02 30 mobile telephone numbers". What they're saying tere is
12:45:04 31 that, "We have information within the SDU that she's made
12:45:09 32 prior inconsistent statements, things that would effect her
12:45:13 33 credibility as a witness, and failed to disclose
12:45:17 34 significant things, such as the bogus mobile telephone
12:45:23 35 numbers that she'd been using"?---Yes.
36
12:45:25 37 If we can go to "Threats", please, under (d). Sixth dot
12:45:35 38 point down you'll see as one of the threats considered,
12:45:39 39 "Exposure of the source as a consequence of becoming a
12:45:42 40 Crown witness"?---Yes.
41
12:45:43 42 The obvious one. "Judicial review of police actions in
12:45:47 43 tasking and deploying one of their own"?---Yes.
44
12:45:51 44
12:45:55 45 "Public interest immunity. Human source well connected in
12:46:00 46 the Victorian legal fraternity". Do you understand what
12:46:02 47 that is meant to mean?---Yes.

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12:46:05 2 What does that mean?---To me that means that having the
12:46:11 3 public interest immunity argument is probably going to
12:46:16 4 reveal who the person is.
5
12:46:21 6 That would indicate that there was an understanding that a
12:46:29 7 court that considered the issue of Ms Gobbo's use as a
12:46:32 8 human source would weigh the public interest and the public
12:46:37 9 interest in that revelation would likely fall in favour of
12:46:44 10 disclosing it?
11
12:46:47 12 COMMISSIONER: Excuse me a minute. There seems to be some
12:46:49 13 problem. What's the issue?
14
12:46:51 14 MR HOLT: We're resolving it, Commissioner.
12:46:52 15
16
12:46:54 17 COMMISSIONER: It's a bit distracting.
18
12:46:58 19 MR HOLT: I apologise, Commissioner.
12:46:58 20
12:46:58 21 MR CHETTLE: It's just about access to documents.
22
12:47:02 23 COMMISSIONER: All right. So who should have access to the
12:47:03 24 documents?
12:47:04 25
12:47:04 26 MR HOLT: Mr Chettle can and we can give him a hard copy.
12:47:10 27 But there's material in here that just shouldn't be up on a
12:47:11 28 screen in the courtroom at present. There's no difficulty
12:47:11 29 with - - -
30
12:47:12 31 COMMISSIONER: There's nobody sitting behind Mr Chettle.
12:47:14 32
12:47:15 33 MR HOLT: Commissioner, there's a whole way along and
12:47:18 34 there's very sensitive material up, so I'm sure we can get
12:47:20 35 through this bit and then get back to - - -
36
12:47:20 37 COMMISSIONER: All right then. Yes, sorry to interrupt
12:47:21 38 Ms Tittensor.
12:47:22 39
12:47:22 40 MS TITTENSOR: You understand public interest immunity
12:47:24 41 means that a court weighs what's in the public interest, is
12:47:28 42 it in the public interest to disclose it or is it in the
12:47:32 43 public interest to make this material immune from
12:47:34 44 disclosure?---Yes.
45
12:47:36 46 And your understanding of this entry would mean that
12:47:40 47 there's an acceptance that a court considering the material

12:47:44 1 in relation to Ms Gobbo as a human source would weigh in
12:47:51 2 favour of disclosure?---Or just having the argument alone,
12:48:01 3 even if it was one, could still reveal her.
4
12:48:06 5 Certainly at least to the court?---Yes, yes. No, no, I
12:48:09 6 mean the adjudicator would be aware. But just having the
12:48:12 7 argument alone because everybody was aware that - well, I
12:48:20 8 could use the word socialising or fraternising, she was in
12:48:24 9 constant communication with this particular community,
12:48:28 10 other people could probably work out who the human source
12:48:31 11 was.
12
12:48:37 13 Underneath that it says, "SDU source contact reports, SCR".
12:48:44 14 I think we've come to know them in this Royal Commission as
12:48:47 15 ICRs, is that the case?---Sorry, where's this?
16
12:48:54 17 Sorry. The second dot point there now on the
12:49:00 18 screen?---Yeah, a contact report, yes, with source or
12:49:04 19 informer, yes.
20
12:49:05 21 We've been calling them ICRs but those contact reports and
12:49:10 22 covert recordings being disclosed?---Yes.
23
12:49:15 24 It talks again then about an OPI review and a serving
12:49:20 25 barrister assisting police, "Consideration of unsafe
12:49:23 26 verdicts and possible appeals, prosecutions current (Mokbel
12:49:27 27 and future)"?---Yes.
28
12:49:29 29 And it seems to indicate that there's an appreciation that
12:49:35 30 there might have been a problem with the process as it was
12:49:40 31 operating thus far, that a court, once it becomes cognisant
12:49:44 32 of these things, may well consider that these convictions
12:49:49 33 are unsafe?---Or create the perception that that is so,
12:49:53 34 yes.
35
12:49:55 36 Well it here - it's talking about the possibility, so
12:49:59 37 there's a possibility that the courts will consider
12:50:02 38 verdicts unsafe and bring into question current
12:50:08 39 prosecutions in relation to Mokbel and future prosecutions
12:50:12 40 that we might be relying upon?---That's correct, but if you
12:50:15 41 go, scroll back up the document. Further up. The first
12:50:27 42 one being the perception, the word perception creates the
12:50:31 43 need to have the argument and then you're reliant on
12:50:34 44 winning the argument to protect those prosecutions.
45
12:50:37 46 Yes. We're talking here under the heading
12:50:41 47 "threats"?---Yes.

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12:50:41 2 And one of the threats is that there might have been - it's
12:50:45 3 a contemplation that there might have been unsafe verdicts
12:50:48 4 that we've achieved, that might lead to appeals, it might
12:50:53 5 jeopardise our ability to continue to prosecute people like
12:50:57 6 Tony Mokbel?---Yes.

12:50:58 8 And the brothers Mokbel that were in the process of being
12:51:05 9 prosecuted?---Yes.

12:51:08 11 That may well be because there has been no disclosure to
12:51:13 12 courts previously in relation to her role?---The argument
12:51:23 13 hasn't been had, yes.

12:51:25 15 The argument hasn't been had?---That's correct, yes.

12:51:27 17 In relation to those previous verdicts that we've
12:51:30 18 achieved?---Yes.

12:51:31 20 To understand whether that process has been fair or
12:51:35 21 not?---That's correct.

12:51:37 23 That so far has been hidden from the court, that
12:51:40 24 suggests?---Correct.

12:51:53 26 The next one I think I still might need to discuss with
12:51:58 27 Mr Holt, Commissioner. I'll skip the next one. Then again
12:52:14 28 we've got, "SDU staff exposure likelihood during any
12:52:20 29 associated court processes"?---Yes.

12:52:22 31 Again, that hadn't been done to that point?---That's
12:52:30 32 correct, yes.

12:52:37 34 It seems to be acknowledged that there was material that
12:52:40 35 was held by the SDU that would very, very likely need to be
12:52:47 36 disclosed should there be a prosecution of Mr Dale?---Yes.

12:52:55 38 They certainly are indicating that they've got material
12:52:59 39 there impacting upon Ms Gobbo's credibility?---Yes.

12:53:05 41 Insofar as prior inconsistent statements in relation to her
12:53:10 42 relationship with Dale, in relation to the use of
12:53:15 43 telephones and so forth?---Yes.

12:53:18 45 It certainly appears to acknowledge also that disclosure
12:53:22 46 had not been made previously when it should have been?---It
12:53:31 47 reads that way, yes.

1
12:53:32 2 Or at the very least confidential affidavits put before the
12:53:36 3 court to allow that process to - - - ?---To have the
12:53:39 4 argument, yes.
5
12:53:56 6 It also indicates, aside from past cases having reached
12:54:02 7 conclusions and verdicts, and no doubt pleas of guilty,
12:54:05 8 there were prosecutions on foot and contemplated future
12:54:07 9 prosecutions?---Yes.
10
12:54:09 11 And it seems to be contemplated that, "We're not going to
12:54:13 12 disclose in those matters either"?---It appears so, that's
12:54:17 13 correct.
14
12:54:27 15 The Petra Task Force, having been provided with that
12:54:32 16 material and those concerns from the SDU, went on to decide
12:54:36 17 that Ms Gobbo should become a witness in any case, you're
12:54:42 18 aware of that?---Yes, so there's a bit of a gap in my
12:54:46 19 knowledge there. So the next time that this is picked up
12:54:52 20 is with the Briars Task Force.
21
12:54:55 22 I think you acknowledge in your statement at paragraph 45
12:54:59 23 that Ms Gobbo signed a statement on 7 January 2009?---Yes.
24
12:55:08 25 You've been informed that she signed a statement on 7
12:55:11 26 January 2009?---Yes. I don't know that I had - - -
27
12:55:15 28 You go on to say, "I have no record of this but I believe I
12:55:19 29 would have been aware of it at the time"?---Yes, but I
12:55:23 30 can't specifically recall it.
31
12:55:27 32 If we can bring up VPL.2000.0002.0109. Sorry, I'll tender
12:55:38 33 that bundle while that's being done, Commissioner.
34
12:55:43 35 COMMISSIONER: Let's work out what the bundle is. So we
12:55:45 36 started with an issue cover sheet of 2 January 09?
12:55:50 37
12:55:50 38 MS TITTENSOR: There was a dissemination list and issue
12:55:52 39 cover sheet and a briefing note.
40
12:55:55 41 COMMISSIONER: Dissemination list. Is it dated?
12:56:00 42
12:56:01 43 MS TITTENSOR: 5 January 2009.
44
12:56:02 45 COMMISSIONER: Right.
12:56:09 46
12:56:09 47 MS TITTENSOR: Attaching an issues cover sheet dated 2

12:56:12 1 January 2009.
2
12:56:15 3 COMMISSIONER: Yes.
12:56:16 4
12:56:16 5 MS TITTENSOR: Attaching a briefing note dated 31 December
12:56:21 6 2008.
12:56:31 7
12:56:32 8 #EXHIBIT RC518A - (Confidential) Distribution list and
9 issue cover sheets dated 31/12/08 and
12:56:37 10 02/01/09.
12:56:37 11
12:56:38 12 #EXHIBIT RC518B - (Redacted version.)
12:56:41 13
12:56:42 14 MS TITTENSOR: Thank you, Commissioner. Paragraph 45, as
12:56:43 15 I've just said, you believe you would have been aware at
12:56:47 16 the time that Ms Gobbo signed the statement?---Yes, but I
12:56:49 17 don't have a recollection of it, yes.
18
12:56:53 19 If we can bring up - this is a document I think you've
12:57:00 20 referred to in your statement at paragraph 46. It's an
12:57:03 21 email sent by Superintendent Biggin to Mr Black and
12:57:09 22 Mr Richards?---Yes.
23
12:57:14 24 There's a Trevor Wilson and an Andrew Glow. Do you know
12:57:24 25 what positions those two men occupy, or occupied at the
12:57:27 26 time?---So Andrew was then the officer-in-charge of the
12:57:33 27 SDU. Trevor at that stage was a direct report to Tony.
12:57:42 28 I'm not sure what function he was serving that caused him
12:57:44 29 to receive a copy at that time.
30
12:57:50 31 In any case it's a - subject is "Re update re
12:57:54 32 statement"?---Yes.
33
12:57:57 34 It indicates there that Mr Biggin has briefed you as the
12:58:02 35 Acting Commander on the potential request for the SDU to
12:58:05 36 continue to manage Ms Gobbo, and in essence that you agree
12:58:15 37 that the SDU should not do it and if asked you would
12:58:18 38 decline the request?---Yes.
39
12:58:20 40 You say at paragraph 46 of your statement that that
12:58:22 41 generally accords with your recollection and you accept
12:58:25 42 that those matters were raised with you; is that
12:58:29 43 right?---Yes.
44
12:58:31 45 Just taking you through a number of those points. The
12:58:35 46 fifth point down, I think, "We have considerable
12:58:41 47 methodology to protect to further deal opens us up to

12:58:47 1 disclosure"?---Yes.
2
12:58:48 3 The 11th point down, "In our dealings with the human
12:58:53 4 source, the source did not disclose all of her relationship
12:58:57 5 with the Task Force Petra target"?---Yes.
6
12:59:05 7 Underneath that, "Now that we're aware of some of the
12:59:10 8 issues we're bound to put them to her strongly and that
12:59:14 9 would damage our relationship with her" essentially?---Yes.
10
12:59:16 11 "We need to protect the value of the source as a witness
12:59:19 12 now"; is that right?---Yes.
13
12:59:24 14 "So we don't want to damage the relationship with her by
12:59:28 15 telling her we know that she's lied to us and we don't want
12:59:33 16 to necessarily disclose the prior inconsistent statements
12:59:38 17 that we know about"?---Yes.
18
12:59:50 19 Point 14, "We are very mindful that the human source is
12:59:53 20 manipulative. We're aware that the human source will play
12:59:57 21 Task Force Petra off against the SDU"?---Yes.
22
13:00:04 23 I asked you earlier whether you'd been told anything about
13:00:09 24 her nature and her dealings with the SDU. Were you aware
13:00:11 25 in what way she was regarded as manipulative?---I can't
13:00:21 26 recall the specifics at this time .
27
13:00:25 28 A few points further down, "Now that the human source is a
13:00:28 29 witness it is in Victoria Police's best interests for the
13:00:31 30 deactivation to occur sooner rather than later"?---Yes.
31
13:00:35 32 Underneath that, "To further involve the SDU would mean
13:00:39 33 that they would be required to be briefed on those issues.
13:00:42 34 They will then potentially become witnesses"?---Yes.
35
13:00:45 36 SDU. The next point, "To be briefed on those issues would
13:00:51 37 mean that we could potentially weaken the human source as a
13:00:54 38 witness"?---Yes.
39
13:00:57 40 A number of points further down, "Task Force Petra were
13:01:00 41 pre-warned of the management issues surrounding this issue.
13:01:04 42 They have a paper to that effect and a risk
13:01:07 43 assessment"?---Yes.
44
13:01:10 45 Presumably that's referring to the 31 December briefing - -
13:01:14 46 - ?---The risk assessment I think that they're referring to
13:01:16 47 is the SWOT analysis.

1
13:01:17 2 Yes. Then the last point, "Potentially Biggin, White and
13:01:28 3 Richards at the least will become witnesses in the
13:01:32 4 prosecution of the target. We need to protect our standing
13:01:35 5 as witnesses as well so to further deal with another
13:01:39 6 witness will cause us all credibility issues in front of a
13:01:42 7 court"?---Yes, that's correct.
8
13:01:46 9 It seems then if we can go to - I'll tender that document,
13:01:51 10 Commissioner.
13:01:55 11
13:01:59 12 COMMISSIONER: The Email from Biggin to others - - -
13:02:04 13
13:02:04 14 MR CHETTLE: It's been tendered, Commissioner. I tendered
13:02:07 15 it through Mr White.
16
13:02:08 17 COMMISSIONER: All right then. We'll just get the exhibit
13:02:10 18 number in a minute.
13:02:14 19
13:02:15 20 MS TITTENSOR: In the meantime if we can bring up
13:02:20 21 VPL.0100.0101.0241 at 0243. You see this is the same -
13:02:33 22 this is within the same file that I think I took you to
13:02:36 23 which had her registration in it and this is her
13:02:44 24 deactivation form?---Yes.
25
13:02:46 26 That is submitted by handler Fox. If we go down to the
13:02:54 27 bottom it indicates that it's dated 13 January 2009?---Yes.
28
13:03:04 29 And signed by yourself on 14 January 2009?---Yes.
30
13:03:08 31 If we scroll up into the document under "Areas of risk" on
13:03:17 32 p.1 of that document. You'll see in the box labelled - so
13:03:27 33 there's a number of areas of risk, is that right, in
13:03:30 34 relation to this form?---Yes.
13:03:31 35
13:03:31 36 "Risk to members, risk to the human source, risk to
13:03:39 37 Victoria Police, risk to the community and risk to
13:03:41 38 information"?---Yes.
39
13:03:42 40 Under the risk to Victoria Police, it indicates,
13:03:45 41 "Management and protection of source now transferred to
13:03:48 42 Petra Task Force. Criticism and adverse publicity to
13:03:55 43 VicPol could occur if source is still not properly managed
13:03:57 44 and protected now she's a Crown witness"?---Yes.
45
13:04:00 46 In relation to the information it says, "Intelligence
13:04:04 47 obtained from source over the past three years is at risk

1 of being exposed and linked to the source, especially
13:04:10 2 during the court discovery process of the pending Petra
13:04:11 3 prosecutions"?---Yes, correct.
4
13:04:15 5 Underneath that there's a section that deals with the
13:04:18 6 control measures for reducing those risks; is that
13:04:25 7 right?---Yes.
8
13:04:28 9 In relation to the information risk, it says, "To date the
13:04:34 10 SDU has played a minimal role in tasking of the source for
13:04:37 11 Petra investigation that led to the source becoming a
13:04:40 12 witness. Recommend management of source be transferred to
13:04:43 13 Petra Task Force to minimise any link to SDU. SDU to have
13:04:47 14 active input in the dissemination of any information by
13:04:50 15 VicPol that relates to the source during the court
13:04:52 16 discovery process"?---Yes.
17
13:05:00 18 Following that time did you become aware that there were
13:05:03 19 charges laid against Paul Dale and Rodney Collins for the
13:05:07 20 murder of the Hodsons?---Yes.
21
13:05:13 22 Were you aware that there appears to have been a decision
13:05:19 23 taken within Victoria Police that disclosure obligations in
13:05:27 24 relation to those proceedings would only be - would be
13:05:30 25 limited to material relating to the investigation conducted
13:05:33 26 by the Petra Task Force and there would be no disclosure in
13:05:41 27 relation to SDU holdings?---No, that's - this is, sorry,
13:05:55 28 during 2009 we're talking, are we?
29
13:05:58 30 Prior to specific subpoenas, and we've discussed the
13:06:01 31 difference between disclosure obligations arising in any
13:06:05 32 case and there being a specific subpoena issued, you would
13:06:10 33 appreciate that in this case it's apparent that the SDU
13:06:15 34 held material which would clearly be relevant to the
13:06:19 35 defence of Mr Dale?---Yes.
36
13:06:25 37 As such it wouldn't be necessary for a subpoena to be
13:06:28 38 issued for that disclosure obligation to
13:06:36 39 arise?---Technically no, but the subpoenas are - my
13:06:39 40 understanding is that they're automatically issued by
13:06:43 41 defence.
42
13:06:43 43 They might be issued in any case?---Yes.
44
13:06:46 45 But there had been - there are disclosure processes that
13:06:50 46 occur through committals under form 8As and notes and so
13:06:55 47 forth?---Yes.

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13:07:23

Are you aware prior to any subpoenas, specific subpoenas being issued targeting informer files that there was any collation of material for the purpose of getting advice in relation to public interest immunity about Ms Gobbo's former role? Did that occur?---Not prior to any specific subpoenas being issued that I'm aware of.

13:07:26
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13:07:52
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Wouldn't it be expected following those documents, which acknowledge that there's going to be relevant material held by the SDU for any subsequent prosecution, wouldn't it be expected that that material would be gathered together so that advice could be taken as to whether there's a legitimate PII claim or not, regardless of whether a subpoena is issued?---Well, the process would normally start once the action was under way.

13:08:02
13:08:07

Assuming that the - - - ?---You mean should it be done pre-emptively, is that what you're asking or?

13:08:10
13:08:13
13:08:17
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As soon as the charges are issued and there's going to be proceedings, and certainly once there's a committal mention and it's going to be contested proceedings, and there are a number of disclosures that occur through that proceeding prior to the committal, this material on the face of it ought to be disclosed?---Yes, if it's proceeding to a contested committal, that's correct.

13:08:44
13:08:48
13:08:53

As an example, in those days there were what was known as form 8As in committals, are you aware of those?---A vague memory, yes.

13:08:55
13:09:01
13:09:04
13:09:08
13:09:12

They, in essence, called for certain things that might have identified the issues in a particular trial, might be relevant, and that would include things about the circumstances of making statements, and those things would be often the issue of a committal in any case?---Yes.

13:09:16
13:09:26
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13:09:35

It would be well-known to any investigator, where there's a contested committal held, a lot of the questioning of a witness, of a major witness, particularly one that's rolled, so to speak, is what the circumstances in which you came to make that statement, that's - - - ?---Yes.

13:09:40
13:09:46
13:09:48

In this case here we've got identified that - we've got holdings that are going to be relevant to any proceeding?---Yes. To a proceeding, yes.

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There is a proceeding, there is - you now understand, you've had an email shown to you and there was a subpoena issued, and that subpoena is issued, you know, in the month or so leading up to the actual committal. But surely before then the police have realised, "We've got this material, it's very relevant to any defence run by Mr Dale. We've got an obligation potentially to disclose it. We need to get some legal advice and put it at least by way as a confidential affidavit before the court". Why was that process not undertaken?---That would be more the responsibility of the investigators who were aware of the material, and I don't know why they didn't do that then but I am aware that once they were required to they acted.

13:10:58
13:11:03

A committal for Mr Dale and Mr Collins was listed in about March of 2010, so we've moved on another year.

13:11:08
13:11:10
13:11:14

COMMISSIONER: Just before you do that. Mr Chettle, the exhibit that you're mentioning, is this the bundle of almost 300 emails that you tendered at the end of - - -

13:11:18
13:11:19
13:11:21
13:11:26
13:11:30
13:11:34

MR CHETTLE: No, Commissioner. I individually tendered this through Mr White. I can also tell you it's in Exhibit 284, the source management log. It's been cut and paste into that by Mr Black. So it's in evidence in two places. I haven't got the exhibit list in front of me.

13:11:37
13:11:39

COMMISSIONER: All right. We'll keep looking then, we haven't found it yet. All right, thank you.

13:11:42
13:11:42
13:11:45
13:11:51
13:11:52
13:11:56
13:11:59
13:12:03

MR CHETTLE: There are about three versions of it, Commissioner. It went up a chain. It had Mr Black's signature on it and he put - Mr Richards sent it to Mr Black and it all got cut and paste into the source management log and it was tendered through Mr White. As to the number I will - if I had Ms Thies I'd have the answer for you straight away.

13:12:04
13:12:08
13:12:10

COMMISSIONER: Thank you. Did you want to tender this document that's on the screen or are you still working on that one?

13:12:11
13:12:13

MS TITTENSOR: Yes, I will tender that document, thank you, Commissioner.

13:12:13

COMMISSIONER: That's the human source deactivation form

13:12:16 1 dated 13 January 09.
13:12:20 2
13:12:21 3 #EXHIBIT RC520A - (Confidential) Human source deactivation
13:12:15 4 form 13/01/09.
13:12:25 5
13:12:26 6 #EXHIBIT RC520B - (Redacted version.)
13:12:32 7
13:12:32 8 MS TITTENSOR: On about 10 March 2010 Steve Smith was
13:12:36 9 called to give evidence during the committal proceedings.
13:12:39 10 Do you know Mr Smith?---Yes.
11
13:12:43 12 What position did he occupy?---He was an Inspector at the
13:12:47 13 Petra Task Force.
14
13:12:51 15 It seems as though in the course of his giving evidence it
13:12:55 16 was discovered that there were documents in existence
13:12:58 17 beyond perhaps the Petra, what the Petra investigators had
13:13:02 18 disclosed?---Yes.
19
13:13:09 20 Were you aware as to whether or not the investigators
13:13:17 21 responsible for the Petra prosecution knew about Ms Gobbo's
13:13:25 22 role as a human source? For them to be making decisions
13:13:32 23 about - do you understand where I'm going?---Yes. So
13:13:39 24 Briars and - in my memory Briars and Petra overlap.
25
13:13:46 26 I'll come to Briars in a minute?---I'm quite certain that
13:13:50 27 Briars, the Briars members knew. I have some recollection
13:13:53 28 of Steve knowing. Whether he knew the full extent or not
13:13:59 29 I'm not sure.
30
13:14:00 31 Steve Smith himself wasn't specifically an investigator, he
13:14:06 32 was an Inspector in relation to - - - ?---A manager.
33
13:14:11 34 A manager?---A manager, yes.
35
13:14:13 36 But the investigators who would have been making decisions
13:14:18 37 about disclosure and "what we need to get advice on" and so
13:14:21 38 forth, were you aware that - I think it was Cameron Davey
13:14:25 39 and Sol Solomon in that case. Were you aware whether they
13:14:28 40 knew of Ms Gobbo's role as a human source?---Over time I
13:14:37 41 had had conversations with Sol and I can't recall whether
13:14:42 42 it was revealed, whether he revealed that he had knowledge.
43
13:14:49 44 Do you agree it would be a problem if the management above
13:14:52 45 them, their line managers or the steering committee that's
13:14:55 46 running this investigation, are withholding from those
13:15:01 47 investigators that material so that it might not be

13:15:04 1 discovered through questioning of them at any proceedings?
13:15:14 2 I might have put that clumsily?---Yeah, so that would be
13:15:18 3 odd but - and it would stifle the investigator's ability to
13:15:26 4 perform their role.
5
13:15:27 6 But also it would stifle the court's ability to understand
13:15:33 7 whether there was a public interest immunity claim to be
13:15:36 8 determined?---Yes.
9
13:15:42 10 It seems as though the existence of these documents beyond
13:15:47 11 the Petra investigation documents was not discovered until
13:15:51 12 evidence started to be given perhaps during the
13:15:56 13 committal?---It appears so.
14
13:15:58 15 And if we can bring up VPL.6025.0003.5194. This is a
13:16:15 16 document that you've seen I think for the purposes of your
13:16:19 17 evidence; is that right?---Yes, that's correct.
18
13:16:23 19 It's an email trail involving Mr Smith. Can we go down to
13:16:33 20 the bottom. Mr Smith has sent you an email?---Yes.
21
13:16:39 22 And it's CC'd to Shane O'Connell?---Yes.
23
13:16:42 24 Do you know what position Mr O'Connell held?---I believe he
13:16:46 25 was the Detective Senior Sergeant in charge of the
13:16:50 26 investigation reporting through to Steve Smith.
27
13:16:58 28 I'm told it's time for lunch, Commissioner.
29
13:17:01 30 COMMISSIONER: Yes. Are you tendering this?
13:17:06 31
13:17:07 32 MS TITTENSOR: I will tender it now. I'll ask some
13:17:10 33 questions about it, Commissioner. I can tender it now,
13:17:13 34 Commissioner.
13:17:13 35
13:17:13 36 #EXHIBIT RC521A - (Confidential) VPL.6025.0003.5194.
13:17:15 37
13:17:16 38 #EXHIBIT RC521B - (Redacted version.)
13:17:18 39
13:17:41 40 COMMISSIONER: We'll adjourn until 2 o'clock.
13:17:46 41
13:17:46 42 <(THE WITNESS WITHDREW)
13:17:48 43
44 LUNCHEON ADJOURNMENT
45
46
47

13:57:30 1 UPON RESUMING AT 2.09 PM:
14:09:36 2
14:09:39 3 COMMISSIONER: Yes Mr Chettle.
14:09:40 4
14:09:40 5 MR CHETTLE: Commissioner, I have searched for that
14:09:42 6 document, I can't find it. I've contacted Ms Thies, she
14:09:47 7 can't find it. And I'm told your clerk can't find it. I
14:09:49 8 hate to say it but I was wrong. I didn't tender it.
14:09:55 9
14:09:55 10 COMMISSIONER: Can we make sure that's recorded in the
14:09:58 11 transcript.
14:10:05 12
14:10:06 13 MR CHETTLE: Commissioner, you were going to tender it as
14:10:10 14 Exhibit 519.
14:10:11 15
14:10:11 16 COMMISSIONER: I have, but we've moved on since then.
14:10:15 17
14:10:15 18 MR CHETTLE: That was the number you kept for it.
14:10:18 19
14:10:19 20 COMMISSIONER: That's right, we will tender it as 519A and
14:10:23 21 B.
14:10:23 22
14:10:24 23 #EXHIBIT RC519A - (Confidential) Email from Biggin to Black
14:10:28 24 and others.
14:10:32 25
14:10:33 26 #EXHIBIT RC519B - (Redacted version.)
14:10:34 27
28 <MARK PORTER, recalled:
29
14:10:34 30 MS TITTENSOR: If we can bring up that last email before
14:10:37 31 lunch that had been tendered, please. You've seen this
14:10:54 32 email at least recently, Mr Porter, is that right?---Yes.
14:10:58 33
14:10:59 34 So this is an email from Steve Smith, as I said, to you,
14:11:04 35 copying in Shane O'Connell?---Yes.
14:11:07 36
14:11:09 37 And both Steve Smith and Shane O'Connell were associated
14:11:13 38 with Petra Task Force?---Yes.
14:11:15 39
14:11:15 40 It says to you that, "Petra had a meeting yesterday with
14:11:22 41 Mr White in relation to registered human source 3838 or
14:11:28 42 2958", which we know now is Ms Gobbo?---Yes.
14:11:32 43
14:11:32 44 That, "We mentioned to him during the course of the
14:11:35 45 committal of Paul Dale in relation to the Hodson murders,
14:11:38 46 that Tony Hargreaves on behalf of Dale has requested
14:11:42 47 production of any informer management files relating to

14:11:45 1 this witness" and identifies 3838 as Witness F who as I
14:11:51 2 said we know is Ms Gobbo?---Yes.
14:11:53 3
14:11:53 4 It goes on that, "We've sought instruction from Ron Gipp,
14:11:58 5 barrister representing the Chief Commissioner of Police,
14:12:00 6 and he has said on the face of it we're obliged to hand
14:12:03 7 over any documents on this file that relate to the Hodson
14:12:07 8 matter"?---Yes.
14:12:07 9
14:12:10 10 It then goes on to, "Request that Petra be given permission
14:12:15 11 to access the file and identify documents that may need to
14:12:20 12 be produced". He understands the ramifications of that and
14:12:24 13 he has discussed it at length with White and he'll bring it
14:12:28 14 to the attention of the Petra steering committee and then
14:12:31 15 once the documents have been accessed they'll negotiate any
14:12:37 16 production, redacted or otherwise, with Mr Gipp?---That's
14:12:40 17 correct.
14:12:40 18
14:12:43 19 In terms of his understanding of the ramifications of that,
14:12:46 20 it was conceivable that once she was disclosed and that
14:12:53 21 there was an informer file that dated back some years prior
14:12:57 22 to her making her witness statement, that that would in
14:13:00 23 turn lead to disclosure of other matters?---Potentially
14:13:08 24 yes, that she had been a human source, yes.
14:13:10 25
14:13:11 26 In relation to the issues associated with Mr Dale, one of
14:13:17 27 the issues related to her representation of him as a lawyer
14:13:22 28 and whether privilege attached to communication he'd had
14:13:26 29 with her?---Yes.
14:13:28 30
14:13:29 31 Given the nature of Ms Gobbo's conduct within the SDU
14:13:36 32 period of time and her association with people that she was
14:13:41 33 representing as a lawyer, it's likely that there might have
14:13:45 34 been disclosure of that nature even relevant to the Dale
14:13:50 35 proceedings?---Yes.
14:13:50 36
14:13:51 37 Do you understand what I mean?---Yes.
14:13:52 38
14:13:53 39 So not only would the Hodson material that was within her
14:13:58 40 informer management file be relevant, but there would be
14:14:02 41 other relevant informing on her acting in conflict in
14:14:09 42 relation to clients?---Correct.
14:14:13 43
14:14:17 44 And that there would no doubt, following from that, be
14:14:21 45 ramifications relating to other prosecutions that were on
14:14:24 46 foot?---Potentially, yes.
14:14:26 47

14:14:28 1 Mr Smith said he'd bring that to the attention of the
14:14:32 2 steering committee and you understood that was Mr Overland
14:14:35 3 and a number of other senior members of Victoria
14:14:41 4 Police?---Yes.
14:14:41 5
14:14:43 6 If I could ask that VPL.6118.0006.6806 be brought up,
14:14:54 7 please. Sorry, before we do that, I might just scroll up
14:15:01 8 so we see the rest of that email. You then respond to that
14:15:07 9 email that you'll be in touch with him the following day
14:15:11 10 and then right up the top of that email - sorry, there he,
14:15:22 11 you then respond to him that you believe that the SDU's
14:15:25 12 already commenced work after speaking with you and they're
14:15:30 13 keeping you and Chris Gilbert informed, is that
14:15:35 14 right?---Yes, that's correct.
14:15:35 15
14:15:35 16 And then there's an email from Mr Gilbert to Mr White
14:15:41 17 saying that he should have access by now. Do you know what
14:15:46 18 that refers to?---Access to the records.
14:15:48 19
14:15:49 20 Right. Did SDU not keep the records themselves as well as
14:15:55 21 the HSMU?---They may have had parts of records but the
14:16:04 22 complete record was maintained by the HSMU.
14:16:06 23
14:16:08 24 If we can go to that next email, please. So you'll see
14:16:13 25 down the bottom it's a copy of the same email but just a
14:16:17 26 slightly different diverging response to it. Following the
14:16:25 27 substantial email you then send an email to Chris Gilbert
14:16:29 28 asking him to give you a ring and he responds to you that
14:16:33 29 he tried, he was aware of the request via the SDU and he'd
14:16:38 30 speak further with you when you were free about getting on
14:16:41 31 the front foot with it?---Yes.
14:16:43 32
14:16:43 33 Do you know what that was about generally?---For me
14:16:46 34 basically seeking my permission for access to the records.
14:16:50 35
14:16:50 36 What does it mean to get on the front foot with it?---Start
14:16:54 37 preparing the record so that it can be accessed.
14:17:02 38
14:17:04 39 For completeness sake if we can go to VPL.6118.0006.7571 or
14:17:17 40 11. 11, thanks. Again, that's the same email trail. It
14:17:27 41 diverges off a bit. No, maybe that's the same
14:17:34 42 one?---That's the same one I think, yeah.
14:17:36 43
14:17:36 44 We won't worry about that one then. I'll tender the
14:17:41 45 earlier one.
14:17:43 46
14:17:43 47 COMMISSIONER: We did that before lunch, didn't we?

14:17:45 1
14:17:47 2 MS TITTENSOR: We did one before lunch but then perhaps the
14:17:47 3 second one that I just brought up just immediately before
14:17:50 4 this one - it might be added to that second email because
14:17:52 5 it was related to the same thing.
14:17:55 6
14:17:57 7 COMMISSIONER: Sorry, what was the date of that one?
14:17:59 8
14:18:00 9 MS TITTENSOR: They are both 11 March but the email chain
14:18:03 10 slightly diverges.
14:18:05 11
14:18:05 12 COMMISSIONER: Is the same chain or not?
14:18:08 13
14:18:09 14 MS TITTENSOR: It's the same originating email but someone
14:18:13 15 else responds differently on the way through.
14:18:18 16
14:18:22 17 #EXHIBIT RC522A - (Confidential) Diverging email chain of
14:18:33 18 Exhibit 521 dated 11/03/10.
14:18:24 19
14:18:24 20 #EXHIBIT RC522B - (Redacted version.)
14:18:36 21
14:18:36 22 MS TITTENSOR: It says that the SDU have commenced work on
14:18:38 23 that. Do you know how far they got into their work and
14:18:44 24 whether there was any document or extracts produced from
14:18:46 25 the ICR material relevant to the Hodson murder
14:18:54 26 disclosure?---No, I can't recall how far they got.
14:19:00 27
14:19:04 28 One of the other Task Forces that used Ms Gobbo's
14:19:09 29 information was the Briars Task Force?---Yes.
14:19:12 30
14:19:13 31 So we had over time three Task Forces that we know about
14:19:18 32 using Ms Gobbo, Purana, Petra, Briars?---Yes.
14:19:22 33
14:19:24 34 At various times ESD also were using information from
14:19:29 35 her?---Yes, that's correct.
14:19:33 36
14:19:35 37 Aside from some of her information going into the general
14:19:41 38 sphere of Victoria Police by way of sanitised IRs, do you
14:19:45 39 know of any other specific Task Force or unit or department
14:19:50 40 that were using her information as those Task Forces and
14:19:56 41 the ESD were?---I can't recall any others at this time.
14:20:01 42
14:20:10 43 During 2007, or commencing in 2007 into 2008, the Briars
14:20:16 44 Task Force was investigating the murder of Shane
14:20:20 45 Chartres-Abbott?---Yes.
14:20:21 46
14:20:22 47 They were investigating the potential involvement of police

14:20:25 1 or former police in that murder?---Yes, that's correct.
14:20:27 2
14:20:30 3 Are you aware that there was a particular interest in that
14:20:34 4 case as there was in the Petra Task Force case of those
14:20:39 5 murders because of potential police involvement?---Police
14:20:45 6 corruption, yes.
14:20:45 7
14:20:47 8 So beyond the investigation that would be carried out by
14:20:52 9 Homicide, for example, in such a murder, in those two
14:20:56 10 particular cases there was more of a special interest
14:20:59 11 because of potential police corruption or involvement in
14:21:02 12 those?---Yes, that's correct.
14:21:03 13
14:21:08 14 At paragraph 38 of your statement - I should say, were you
14:21:12 15 aware from the outset that the Briars Task Force was up and
14:21:17 16 running?---I probably wasn't aware when it was first
14:21:25 17 started but I learnt of it at some stage after it had
14:21:29 18 commenced.
14:21:30 19
14:21:31 20 At paragraph 38 of your statement you refer to a 1 November
14:21:42 21 2007 diary entry in relation to a conversation you've had
14:21:47 22 with Detective Inspector Steve Waddell, is that
14:21:51 23 right?---Yes.
14:21:51 24
14:21:52 25 Your entry there mentions the first name of
14:21:55 26 Mr White?---Yes.
14:21:55 27
14:21:56 28 And it relates to a Task Force where there's a joint
14:22:00 29 investigation involving the OPI and police?---Yes.
14:22:01 30
14:22:02 31 And you're aware that the OPI were involved in that
14:22:05 32 investigation with police, that is Operation Briars?---Yes.
14:22:10 33
14:22:11 34 And the Briars Task Force steering committee consisted of
14:22:14 35 Deputy Commissioner Overland, Assistant Commissioner Luke
14:22:18 36 Cornelius and Mr Ashton at the OPI?---Yes. So later it
14:22:32 37 became, Simon Overland became the Chief Commissioner when
14:22:35 38 he was still performing that function, I'm not quite sure
14:22:38 39 when it was.
14:22:39 40
14:22:39 41 I think that was some time in early 2009, maybe March or
14:22:43 42 May 2009 he became Assistant Commissioner, is that
14:22:47 43 right?---That sounds about right, yes.
14:22:49 44
14:22:49 45 He maintained a place on that steering committee?---I
14:22:52 46 believe so, yes.
14:22:53 47

14:22:55 1 You're aware of the involvement of Mr Iddles with that Task
14:23:01 2 Force?---Yes.
14:23:02 3
14:23:03 4 Were you aware during that time that Ms Gobbo had provided
14:23:07 5 information which had been disseminated to that Task
14:23:10 6 Force?---I was aware that they knew of her.
14:23:16 7
14:23:17 8 Were you aware that they were receiving information or
14:23:22 9 receiving disseminations from the SDU and there were
14:23:28 10 tasking operations occurring as between Briars and the SDU
14:23:32 11 with Ms Gobbo?---I think I learnt of it because the first
14:23:43 12 contact really from that Task Force was really with Officer
14:23:47 13 White.
14:23:47 14
14:23:49 15 Were you aware at some point in time that she'd essentially
14:23:53 16 been tasked to leak information to David Waters?---I don't
14:24:01 17 think I knew of that at the time. I mean there's been a
14:24:04 18 lot of media coverage of what went on with that issue since
14:24:09 19 and I'm certainly aware of it now but I don't know that I
14:24:13 20 knew that at that time.
14:24:16 21
14:24:19 22 At what stage did you become aware that there was
14:24:22 23 consideration being given to Ms Gobbo becoming a witness in
14:24:24 24 the Briars matter?---I think it was with that first
14:24:34 25 meeting. No, no, sorry.
14:24:38 26
14:24:39 27 I'll ask it this way: did you become aware of discussion
14:24:45 28 about her becoming a witness in the Briars matter after
14:24:48 29 she'd already become a witness in the Petra matter?---Yes,
14:24:51 30 certainly, yes.
14:24:52 31
14:24:52 32 That would place it at some stage - - - ?---Early 2009,
14:24:58 33 yes.
14:24:59 34
14:25:04 35 If we can bring up Mr White's diary or maybe the source
14:25:12 36 management log might be easier. That's fine. For 2 March
14:25:22 37 2009. I'm going to take you through some matters and some
14:26:00 38 of these matters, Mr Porter, or some of these meetings you
14:26:04 39 may have been involved in, some you may not, but they
14:26:07 40 provide context as to the progression of matters. 2 March
14:26:18 41 2009. You'll see there there's - this, by the way, I think
14:26:36 42 reflects Mr White's diary entry. He is at the Petra Task
14:26:55 43 Force and there's a meeting of Mr White, along with SDU
14:27:00 44 member Black, Superintendent Biggin, Detective Inspector
14:27:05 45 Smith and Detective Senior Sergeant O'Connell of the Petra
14:27:12 46 Task Force?---Yes.
14:27:13 47

14:27:13 1 There's discussion there in relation to generally
14:27:16 2 Ms Gobbo's handling and management?---Yes.
14:27:18 3
14:27:19 4 It seems as though at this stage Deputy Commissioner
14:27:24 5 Overland was suggesting SDU assistance again?---Yes.
14:27:28 6
14:27:29 7 So that had been first suggested back in January but the
14:27:33 8 SDU and you had resisted that course?---Yes.
14:27:36 9
14:27:40 10 For issues relating, amongst other things, to
14:27:45 11 disclosure?---Yes.
14:27:46 12
14:27:48 13 It's noted that if the - down the bottom again, that there
14:27:55 14 was some discussion around the options in relation to the
14:27:59 15 management. It's not an option because the SDU strategy
14:28:03 16 was to isolate the Dale investigation from the activities
14:28:05 17 of the past and if the SDU was involved again, Ms Gobbo
14:28:10 18 wins and the message is sent that she can manipulate the
14:28:15 19 police?---Yes.
14:28:15 20
14:28:17 21 In relation to the disclosure aspect of things, do you know
14:28:21 22 whether there was any advice taken by the HSMU to determine
14:28:26 23 that the activities of the past would not be disclosable by
14:28:32 24 separating things as they said that they would?---No, there
14:28:37 25 was no - I'm not aware that any legal advice was sought and
14:28:42 26 if it was, the request would have come through me.
14:28:45 27
14:28:47 28 If we can just scroll to the next page, please. You see
14:28:56 29 that there's another point there, "If the SDU is involved
14:29:00 30 again there's a potential for what has occurred in the past
14:29:03 31 to come back in the discovery process and
14:29:06 32 cross-examination". It appears to be the case that at the
14:29:09 33 moment there's a belief or an intention, having separated
14:29:15 34 her from the SDU, that that won't be disclosable in the
14:29:19 35 court process, is that right?---That's right. That's
14:29:25 36 correct.
14:29:25 37
14:29:27 38 Down the bottom there it indicates that they're considering
14:29:33 39 her viability as a witness in relation to a number of other
14:29:36 40 matters, for example, Karam, Mokbel and Gatto, is that
14:29:43 41 right?---Yes. Yes, that's correct.
14:29:47 42
14:29:49 43 Beyond that, so if we had Mr White's diary, that would
14:29:55 44 indicate that that meeting took place at 8.30 and then -
14:29:59 45 there we go. Thank you for that. There's the diary, so
14:30:04 46 you can see the entry is reflected there?---Yes.
14:30:08 47

14:30:08 1 And then if we go down to the next entry. At 10.30 there's
14:30:14 2 a further meeting. Essentially with the same people but
14:30:17 3 this time we've got Assistant Commissioner Moloney, Wilkins
14:30:24 4 and Fraser as well?---Yes.
14:30:26 5
14:30:27 6 The same issues are discussed and it's noted that Detective
14:30:33 7 Inspector Smith is to brief the steering committee
14:30:35 8 ultimately?---Yes.
14:30:39 9
14:30:41 10 If we can then go to - so that was on 2 March. If we can
14:30:45 11 then go to Mr Black's diary on 3 March. If we can go to 3
14:31:11 12 March. It's at p.176 I think of that document. And over
14:31:39 13 the page under 3 March. At 14:30, so we see 3 March there
14:31:48 14 and if we scroll through to 14:30 on that date we'll see he
14:31:54 15 receives a call from Detective Senior Sergeant Iddles who
14:32:00 16 requests a meeting in relation to Briars?---Yes.
14:32:04 17
14:32:04 18 And then if we go to 17:30, that meeting is reflected. He
14:32:14 19 has that meeting which goes for about an hour and a half it
14:32:18 20 seems?---Yes.
14:32:18 21
14:32:19 22 Until 19:00. And then there's a number of points made
14:32:24 23 under a number of headings. The background from the SDU
14:32:29 24 perspective indicates that the SDU is aware that command
14:32:32 25 have decided to approach Ms Gobbo for a statement. That
14:32:37 26 command are of the view that Ms Gobbo's now a witness for
14:32:40 27 Petra so she could be a witness for Briars. That SDU
14:32:45 28 viewed the circumstances very differently. That the SDU
14:32:49 29 anticipates that if that course of action is pursued
14:32:52 30 Ms Gobbo's role as a human source would be discovered and
14:32:56 31 they recommend back to command that no such statement be
14:33:00 32 taken?---Correct.
14:33:01 33
14:33:01 34 The SDU perspective is outlined and that's consistent with
14:33:05 35 what's been said in the past?---Yes.
14:33:07 36
14:33:09 37 At least insofar as Petra was concerned. Then there's the
14:33:15 38 Briars' perspective. That a statement from Ms Gobbo is
14:33:20 39 still being requested. There was concern re disclosure of
14:33:26 40 Ms Gobbo's role as a source. There was dual responsibility
14:33:32 41 of giving legal advice to clients is noted as a point.
14:33:37 42 That disclosure will initiate a Royal Commission with
14:33:40 43 perceived unsafe verdicts. And that current arrests that
14:33:46 44 Ms Gobbo is involved with may be subject to review?---Yes.
14:33:49 45
14:33:51 46 Do you know what those current arrests that Ms Gobbo was
14:33:55 47 involved with referred to?---No, I couldn't recall at this

14:34:03 1 time what they actually were.
14:34:05 2
14:34:05 3 Certainly the Mokbel matters had been raised previously and
14:34:13 4 were you aware of the arrest of Mr Karam and a number of
14:34:19 5 others in relation to, by the AFP or the joint Task Force
14:34:26 6 in relation to tomato tins. Did you have any knowledge of
14:34:29 7 that?---Yes. I can't recall whether I learnt that through
14:34:36 8 the media or learnt that internally in the organisation. I
14:34:41 9 was aware that there was an arrest out Campbellfield way,
14:34:45 10 yes.
14:34:45 11
14:34:47 12 Were you aware of Ms Gobbo's association with Faruk
14:34:54 13 Orman?---No.
14:34:54 14
14:34:59 15 To those perspectives came another heading of SDU response
14:35:04 16 again. That the risk assessment should be conducted
14:35:08 17 regarding the evidentiary value of any possible statement
14:35:10 18 against the harm to Victoria Police and the disclosure of
14:35:13 19 her assistance?---Yes.
14:35:14 20
14:35:16 21 That the issue should be suspended for a period to get
14:35:21 22 input from Superintendent Biggin who had gone on
14:35:24 23 leave?---Yes.
14:35:24 24
14:35:25 25 And that there'd been employed a strategy when Ms Gobbo
14:35:30 26 became a witness to separate her role as a source from that
14:35:33 27 of a witness?---Yes.
14:35:34 28
14:35:35 29 Again referring to avoiding disclosure of SDU
14:35:38 30 materials?---Yes.
14:35:38 31
14:35:42 32 It's then the case, to fill you in, that between around 24
14:35:50 33 and 29 May 2009 Detective Senior Sergeant Iddles and
14:35:55 34 Detective Inspector Waddell travelled to Bali and they take
14:35:58 35 a statement from Ms Gobbo, unsigned?---Yes.
14:36:02 36
14:36:02 37 Were you aware of that occurring?---Either - probably not
14:36:07 38 at the time but I think I became aware shortly after, yes.
14:36:11 39
14:36:11 40 It's apparent that they had been provided with documents
14:36:15 41 which contained information Ms Gobbo had provided to the
14:36:20 42 SDU for the purpose of that exercise. Would that be
14:36:25 43 something that you would have expected the HSMU to have
14:36:29 44 been notified of before that material was provided to a
14:36:32 45 Task Force?---Yes.
14:36:33 46
14:36:35 47 Are you aware whether or not that happened?---I can't

14:36:40 1 recall now whether it happened or not, no.
14:36:41 2
14:36:45 3 There's some notes in Mr White's diary on 6 April 2009
14:36:51 4 relating to a discussion between he and Mr Biggin about not
14:36:56 5 approving the release but showing Detective Inspector
14:37:00 6 Waddell some ICRs in relation to Ms Gobbo. Is that
14:37:05 7 something that Superintendent Biggin had the authority to
14:37:09 8 do?---Not after the - not after the human source was
14:37:18 9 deregistered, no.
14:37:19 10
14:37:21 11 Was that something that Mr White had the authority to
14:37:24 12 do?---No.
14:37:26 13
14:37:30 14 Mr Black's diary later indicates that Mr White told him on
14:37:36 15 2 June 2009 that the document that had been provided to
14:37:40 16 Briars had been, supposed to have been handed back to the
14:37:44 17 SDU but still hadn't been by that date, so it's apparent
14:37:47 18 that although there's some discussion about not approving
14:37:53 19 any release but showing Detective Inspector Waddell some
14:37:56 20 material that they took away that material and they took a
14:37:59 21 statement on the basis of it, at least an unsigned
14:38:03 22 statement on the basis of that material. And according to
14:38:07 23 Mr Iddles, Ms Gobbo could only recall specific dates or
14:38:11 24 conversations by reference to those documents which in turn
14:38:16 25 essentially formed the basis for her statement, the
14:38:19 26 statement that they took. It's quite clear from that, that
14:38:25 27 that material would necessarily be disclosable?---Yes.
14:38:29 28
14:38:35 29 And Mr Iddles unsurprisingly formed the view that if the
14:38:39 30 statement was to be used in a criminal proceeding she would
14:38:44 31 immediately be identified as a source?---Yes.
14:38:46 32
14:38:47 33 They sought advice from Superintendent Rod Wilson who was
14:38:51 34 in charge of Briars at the time about that. It's apparent
14:38:57 35 that Wilson conveyed that the direction had come from
14:39:00 36 Deputy Commissioner Overland that the statement was to be
14:39:03 37 taken nonetheless. Were you involved in any discussion in
14:39:08 38 relation to that process?---I believe only after - sorry,
14:39:18 39 I'd have to compare the date the statement was taken.
14:39:21 40
14:39:22 41 The statement was taken at some stage between 24 and 29 May
14:39:26 42 2009. It appears during that period - - - ?---So I was
14:39:34 43 involved in discussions about it after the fact.
14:39:37 44
14:39:42 45 Mr Iddles has provided a statement to the Commission which
14:39:47 46 indicates that during the process of taking that statement
14:39:49 47 from Ms Gobbo she spoke to him about her informing to the

14:39:59 1 SDU and said that Mr White had constantly told her not to
14:40:05 2 breach privilege and that she had responded to Mr White,
14:40:09 3 "It's a bit late, I crossed that line a long time ago. I
14:40:12 4 act in the best interests of Victoria Police, not my
14:40:15 5 client". Following that Mr Iddles and Mr Waddell decided
14:40:27 6 that they'd complete the statement but they wouldn't ask
14:40:31 7 Ms Gobbo to sign it and then they came back to
14:40:36 8 Melbourne?---Yeah, that - that's my understanding, yes.
14:40:40 9
14:40:42 10 That the nature of those discussions was conveyed to you
14:40:45 11 following their return to Melbourne?---Yes.
14:40:47 12
14:40:49 13 If we can put up Mr Black's diary again, please, at p.180.
14:41:17 14 There's an entry here which indicates that Mr Black had I
14:41:26 15 think found out about a meeting that had occurred in the
14:41:31 16 absence of the SDU and in the absence of yourself and
14:41:35 17 Biggin, which related to Ms Gobbo making a statement to
14:41:38 18 Briars?---Yes.
14:41:39 19
14:41:40 20 And that someone had given a direction that the ICRs in
14:41:46 21 relation to Ms Gobbo be given to Briars and he was clearly
14:41:49 22 unhappy about that occurrence. Do you recall that? Do you
14:41:57 23 recall that issue?---Yes, I recall the issue, yes.
14:42:00 24
14:42:00 25 He then spoke to, if we scroll down, he spoke to Detective
14:42:08 26 Inspector Glow, his officer-in-charge, and requested a
14:42:10 27 meeting?---Yes.
14:42:12 28
14:42:12 29 And as you see there in that entry at 15:30 he requested an
14:42:16 30 audience with you?---Yes.
14:42:17 31
14:42:19 32 And then at 15:45 he has that meeting with you and also
14:42:25 33 with Smith, handler Smith who at that stage had been
14:42:31 34 upgraded and was working at the HSMU?---Yes.
14:42:36 35
14:42:38 36 I think your diary entry also records that Rod Journing
14:42:45 37 attended that meeting, is that right?---15:45. Sorry, what
14:42:55 38 was the date then?
14:42:57 39
14:42:57 40 This is 2 June 2009?---Yes.
14:43:06 41
14:43:11 42 They discuss, there's a number of matters at which you
14:43:15 43 discuss at that meeting. There's a discussion about of
14:43:19 44 course releasing the records, disclosure of the source, the
14:43:26 45 ICR, the issue of the ICRs not having been briefed, that is
14:43:31 46 they were concerned that this had all been going on without
14:43:36 47 the SDU being briefed?---Yes.

14:43:37 1
14:43:37 2 There was discussion about the implication from Victoria
14:43:41 3 Police if Ms Gobbo's role was ever disclosed?---Yes.
4
14:43:43 5 It says there, "Overview of Petra versus Briars", obviously
14:43:47 6 talking about the differences between the two?---Yes.
14:43:49 7
14:43:50 8 That public interest immunity may not be successful and
14:43:52 9 would jeopardise the HSMU program?---Yes.
14:43:56 10
14:43:57 11 That command may cause a Royal Commission?---Yes.
14:44:01 12
14:44:02 13 It's tactically dangerous for convictions?---Yes.
14:44:07 14
14:44:07 15 That is convictions that have already been achieved by the
14:44:10 16 use of Ms Gobbo's information?---Yes.
14:44:12 17
14:44:18 18 That the Briars actions will get Ms Gobbo killed?---Yes.
14:44:22 19
14:44:23 20 That SDU won't be actioning Journing's direction and that
14:44:29 21 you agreed and that you'd investigate the matter?---Yes.
14:44:33 22
14:44:34 23 If we can bring up VPL.2000.0002.0403 please. This is a
14:44:50 24 report of the same date by Mr Smith, essentially reporting
14:45:01 25 on that request, is that right, or the request that had
14:45:06 26 been raised by Journing that got Mr Black and others at the
14:45:12 27 SDU a bit upset?---Yes.
14:45:14 28
14:45:15 29 And there was - so that's the initial request from Briars
14:45:20 30 asking for ICRs and audio recording access in relation to
14:45:26 31 Ms Gobbo's file?---Yes.
14:45:28 32
14:45:28 33 And specifically they wanted searches to be done across
14:45:32 34 those matters for a list of people and locations?---Yes.
14:45:37 35
14:45:39 36 They say that, "The SDU were advised of the above search
14:45:44 37 criteria, however discussions are being held involving the
14:45:48 38 CSR, Superintendent Porter (that's yourself),
14:45:48 39 Superintendent Biggin, the Assistant Commissioner of Crime
14:45:51 40 and the Assistant Commissioner of ESD which are to be
14:45:55 41 finalised before any request for assistance is
14:45:59 42 actioned"?---Yes, that's correct.
14:46:00 43
14:46:00 44 Is it the case that all of those people, the Assistant
14:46:04 45 Commissioner of Crime, the Assistant Commissioner of ESD
14:46:05 46 were to be consulted?---Yes.
14:46:08 47

14:46:09 1 And that report was placed on the HSMU file and apparently
14:46:14 2 a copy of the email, the initial email, the originating
14:46:18 3 email was not permitted to be retained?---Yes.
14:46:23 4
14:46:24 5 Do you know why that would be?---No, I'm just - I can't
14:46:30 6 recall just at the moment. Do you have a copy of that
14:46:40 7 email?
14:46:41 8
14:46:42 9 No, we don't. That's the only copy, I think, the
14:46:47 10 Commission has in relation to what the original request
14:46:54 11 was?---No. No, I can't recall just at the moment. It
14:46:58 12 might help if I saw the email.
14:46:59 13
14:47:00 14 I assume the email is going to, or that report may well
14:47:04 15 replicate a lot of the email in terms of what was
14:47:15 16 requested?---Yes. I'm not quite sure why I directed that
14:47:18 17 it was not to be retained.
14:47:21 18
14:47:24 19 Can you envisage in what circumstances you might make such
14:47:28 20 a direction?---No, not at the moment, sorry.
14:47:47 21
14:47:47 22 I tender that report, Commissioner.
14:47:51 23
14:47:54 24 #EXHIBIT RC523A - (Confidential) Request for assistance.
14:47:55 25 from Operation Briars re deregistered
14:47:58 26 source Nicola Gobbo.
14:48:04 27
14:48:04 28 #EXHIBIT RC523B - (Redacted version.)
14:48:08 29
14:48:08 30 If we can go back to Mr Black's diary at p.183, please.
14:48:39 31 Sorry, I can't see the date there. We want 3 June. Yes.
14:48:51 32 You'll see there there's a slight extract of an email
14:48:57 33 contained within the diary?---Yes.
14:48:59 34
14:48:59 35 At 9.05. Mr Black has indicated he's reviewed an email
14:49:08 36 from HSMU per Waddell and Journing demands and a list of
14:49:14 37 identities that are listed there. And if we can - he'd
14:49:20 38 briefed someone to start assessing the volume of the
14:49:22 39 intelligence just within the SDU holdings on their Z drive
14:49:28 40 and that it couldn't be serviced by the time that it had
14:49:32 41 been requested in any case?---Yep.
14:49:36 42
14:49:36 43 And that any further request should go through the HSMU via
14:49:41 44 a request to them?---Yes.
14:49:43 45
14:49:44 46 If we can continue up. There's a call by Detective
14:49:55 47 Inspector Glow to Mr Black following up from that matter.

14:49:59 1 There's a request to the officer-in-charge to schedule a
14:50:02 2 meeting with command, at least with yourself,
14:50:05 3 Superintendent Porter and to include the SDU to discuss the
14:50:08 4 issues with Waddell?---Yes.
14:50:10 5
14:50:10 6 And Mr Black then outlines all the issues again. Do you
14:50:16 7 see that?---Yes.
14:50:17 8
14:50:19 9 Goes through a number of those issues and I won't take you
14:50:22 10 through them all again now. Save that I will go straight
14:50:28 11 to the last dot point on that page. So the issues then
14:50:40 12 clearly being outlined to Detective Inspector Glow are:
14:50:44 13 "Disclosure of individual's assistance to Victoria Police,
14:50:49 14 and then it lists 1, as a tasked source; 2, who is an
14:50:54 15 active barrister; 3, visiting clients; 4, clients who think
14:51:00 16 they have privilege; 5, clients who believe they are
14:51:03 17 speaking with their legal representative; 6, that very
14:51:06 18 person who then passes the information to police; 7, the
14:51:10 19 human source then continues to act for the client; 8,
14:51:13 20 furthermore, human source then convinces the client to
14:51:16 21 plead guilty." Do you see that?---Yes.
14:51:20 22
14:51:22 23 If we then go down further on there's a number of questions
14:51:26 24 down the bottom which include the success of a public
14:51:30 25 interest immunity application. Sorry, we've gone down too
14:51:35 26 far. It says, "Success of a public interest immunity
14:51:39 27 application?" And another question, "How to control human
14:51:43 28 source evidence when in witness box?" Very, very serious
14:51:49 29 matters being raised there, are they not?---Yes, they are.
14:51:53 30
14:51:57 31 You can understand why the SDU were concerned that this
14:52:00 32 information not get out?---Yes.
14:52:03 33
14:52:04 34 You can understand why people were saying this is going to
14:52:06 35 cause a Royal Commission?---Yes.
14:52:08 36
14:52:15 37 At paragraphs 48 and 49 of your statement you describe
14:52:20 38 having a meeting on this same day with Detective Inspector
14:52:26 39 Glow, with Mr Smith, Mr Black, Mr Iddles and
14:52:30 40 Mr Waddell?---Yes.
14:52:30 41
14:52:32 42 And your diary, if you have a look at your diary, refers
14:52:35 43 to, "Discussed issues regarding a witness in Operation
14:52:40 44 Briars to be raised with Assistant Commissioner
14:52:43 45 Moloney"?---Yes.
14:52:44 46
14:52:47 47 Your statement indicates that you recall discussion about

14:52:51 1 Ms Gobbo's welfare or well-being?---Yes.
14:53:03 2
14:53:04 3 Although there's nothing in your diary that indicates that
14:53:07 4 the discussion was limited to her welfare or well-being, is
14:53:10 5 there?---No.
14:53:11 6
14:53:11 7 And you would expect, given the content of the issues that
14:53:15 8 had been raised by Black with, Mr Black with Mr Glow, that
14:53:22 9 some very serious other issues would have been raised with
14:53:26 10 you and those present at that meeting?---Yes.
14:53:30 11
14:53:34 12 Mr Iddles in his statement to the Commission has a
14:53:37 13 recollection of meeting with you following his return from
14:53:42 14 Bali and that he again expressed his view that if a
14:53:47 15 statement was signed it would expose Ms Gobbo as a human
14:53:50 16 source and based upon what she'd told him there was a
14:53:53 17 probability of a Royal Commission. Now, I take it you
14:53:57 18 would accept that such views were expressed in that meeting
14:54:03 19 that he had with you it seems on 3 June 2009?---Yes.
14:54:08 20
14:54:14 21 Go back to Mr Black's diary, please. At p.183, please. If
14:54:43 22 we can move further up, please. You see there at 15:00 I
14:54:56 23 think is Mr Black's notations in relation to what went on
14:55:03 24 at that meeting with you?---Yes.
14:55:05 25
14:55:06 26 There was an outline given by Glow in relation to the
14:55:09 27 receipt of the Briars' request?---Yes.
14:55:15 28
14:55:20 29 It refers to you, an outline of the duty of care per the
14:55:27 30 sterile corridor and disclosure of SDU methodology and the
14:55:30 31 need to manage the process?---Yes, that's correct.
14:55:33 32
14:55:37 33 It refers to a possible or refers to review of the entire
14:55:43 34 human source management program?---Yes.
14:55:46 35
14:55:47 36 There's a warning about her health and honesty and prior
14:55:52 37 inconsistent statements?---Yes.
14:55:55 38
14:56:02 39 If we can just scroll further, please. It refers to
14:56:10 40 Ms Gobbo on that top line there having been deployed
14:56:13 41 against Waters as a source?---Yes.
14:56:16 42
14:56:21 43 And then that's to be contrasted potentially, they would
14:56:25 44 say, with Dale where she was deployed against him by Petra,
14:56:30 45 not as a source with the Source Development Unit?---Yes.
14:56:33 46
14:56:34 47 It refers to Gobbo intelligence and a tool to arrest the

14:56:44 1 Mokbel family?---Yes.
14:56:47 2
14:56:48 3 And then it finishes with matters to be revisited with the
14:56:52 4 Assistant Commissioner of Crime Moloney to ensure the
14:56:55 5 decision to have a statement taken from Ms Gobbo is made
14:56:59 6 with all the facts?---Yes.
14:57:00 7
14:57:01 8 In other words they need to seriously consider the
14:57:05 9 ramifications of making her a witness in this case?---Yes.
14:57:10 10
14:57:12 11 You're going to call into question not just her honesty and
14:57:18 12 integrity as a witness in this case, but in all the other
14:57:21 13 cases that she's had involvement in?---Yes.
14:57:24 14
14:57:32 15 Your statement indicates that at paragraph 50 that on 5
14:57:38 16 June you spoke with Mr Journing about Operation
14:57:42 17 Briars?---Yes.
14:57:42 18
14:57:43 19 And you told him that the issue was being elevated to
14:57:47 20 Assistant Commissioner Moloney?---Yes.
14:57:48 21
14:57:49 22 Then on 9 June 2009 at paragraph 51 you say you met with
14:57:55 23 Assistant Commissioner Moloney and Gerry?---Yes.
14:57:57 24
14:57:58 25 And Gerry was, you say likely to be Superintendent Gerry
14:58:03 26 Ryan?---Yes.
14:58:03 27
14:58:04 28 What department was he?---Crime.
14:58:06 29
14:58:08 30 You discussed the issue with them of Ms Gobbo becoming a
14:58:11 31 witness?---Yes.
14:58:12 32
14:58:13 33 No doubt you would have been concerned to convey those very
14:58:17 34 serious concerns that we've been discussing to Assistant
14:58:23 35 Commissioner Moloney and Superintendent Gerry Ryan?---Yes.
14:58:27 36
14:58:28 37 Your diary simply records SDU issue, is that right?---Yes.
14:58:32 38
14:58:34 39 And because of, no doubt, of you conveying those serious
14:58:39 40 concerns, they've got the message and the message - sorry,
14:58:43 41 they've got the message and it's to be further elevated to
14:58:48 42 Assistant Commissioner Luke Cornelius?---Yes.
14:58:49 43
14:58:50 44 And Cornelius was part of the Briars steering
14:58:55 45 committee?---Yes, I believe so, yes.
14:58:56 46
14:58:59 47 On 10 June, the next day, 2009 at paragraph 52 of your

14:59:04 1 statement, you met with Assistant Commissioner Cornelius,
14:59:09 2 Assistant Commissioner Moloney, Acting Commander Rod
14:59:13 3 Journing and Detective Inspector Waddell regarding the
14:59:16 4 issue?---Yes.
14:59:16 5
14:59:17 6 And you spoke you say about a document or a briefing note
14:59:20 7 written by Mr Black?---Yes.
14:59:25 8
14:59:28 9 In Mr Black's diary he indicates, it's hard to understand
14:59:35 10 exactly what date it is because some of the dates have been
14:59:40 11 redacted, but at some stage in June after the meetings that
14:59:44 12 he'd had with you he completed a briefing note, it says, to
14:59:49 13 Detective Inspector Glow in relation to a number of
14:59:51 14 matters, one of which included meeting with command to
14:59:54 15 address human source 3838 statement issues?---Yes.
14:59:57 16
15:00:00 17 Do you know whether the briefing note you received was an
15:00:04 18 updated briefing note or it was, you say in your statement
15:00:09 19 it could have simply been 31 December 2008 briefing
15:00:14 20 note?---It could have been. I recall, I do recall talking
15:00:18 21 to a document at that meeting and I'm advised that there's
15:00:25 22 no obvious document other than the one that you've just
15:00:28 23 referred to, so it could be that it was that document.
15:00:31 24
15:00:31 25 It's likely, is it not, that there would have been at least
15:00:36 26 - well his notes seem to indicate that he'd provided a
15:00:39 27 different briefing note or an updated briefing note at
15:00:42 28 least and it's likely given the even more serious
15:00:45 29 ramifications likely from Briars as opposed to Petra, that
15:00:50 30 he would have updated those concerns?---Yes.
15:00:53 31
15:00:53 32 They were now - - - ?---If it was updated, yes.
15:00:56 33
15:00:58 34 - - - speaking openly about the potential for a Royal
15:01:02 35 Commission, and Mr Iddles was expressing the same views.
15:01:05 36 Do you think it was likely there was an updated briefing
15:01:09 37 note that you were speaking to?---I originally thought
15:01:11 38 there was. I mean - you know, it is a long time ago and my
15:01:19 39 memory is somewhat distorted, and I thought I was talking
15:01:23 40 to a document that was created for that meeting, but it may
15:01:28 41 have been an older document.
15:01:29 42
15:01:30 43 Nevertheless, you would have been concerned, as they were,
15:01:34 44 to convey the serious issues that had been conveyed to you
15:01:40 45 that I've just taken you through?---Yes.
15:01:43 46
15:01:45 47 Including concerns about bringing past convictions into

15:01:50 1 jeopardy?---Yes, but as I stated yesterday, the most
15:01:56 2 serious risk was the fact that she would be revealed and
15:02:01 3 that her life was in danger.
15:02:04 4
15:02:05 5 When Mr Black is listing all these risks in his notes, of
15:02:12 6 course he does raise the risks in relation to her being
15:02:15 7 revealed?---Yes.
15:02:17 8
15:02:17 9 And the consequences of that?---Yes.
15:02:18 10
15:02:19 11 And he says the source may be killed. So those kinds of
15:02:23 12 things. That's interspersed with other risks he is listing
15:02:29 13 about it tactically dangerous for convictions, command may
15:02:33 14 cause a Royal Commission and so forth?---Yes.
15:02:35 15
15:02:35 16 It's not just in isolation?---No.
15:02:37 17
15:02:37 18 The concern about her safety, is it?---No.
15:02:40 19
15:02:53 20 At paragraph 53 of your statement you say you recall
15:02:56 21 leaving that meeting with the impression that Assistant
15:02:59 22 Commissioner Cornelius was not the ultimate decision maker
15:03:02 23 and it was likely that senior management in charge of
15:03:05 24 Briars would make the decision?---Yes.
15:03:08 25
15:03:08 26 It seems the other members of the steering committee were
15:03:17 27 Deputy Commissioner Overland and Mr Ashton. Did you have a
15:03:25 28 belief as to who would be the ultimate decision maker?---I
15:03:29 29 think Mr Overland was then Chief Commissioner and I would
15:03:34 30 assume that he was the ultimate decision maker.
15:03:38 31
15:03:42 32 We're in mid-2009. Paragraph 54, you say essentially
15:03:55 33 shortly after that you're told that Ms Gobbo would provide
15:03:58 34 a statement to the Briars Task Force?---Yes.
15:04:01 35
15:04:02 36 Who told you that?---I can't recall. I just remember that
15:04:10 37 we weren't successful in persuading the senior managers.
15:04:16 38
15:04:16 39 You had these very serious concerns and almost
15:04:21 40 inevitability that she would be revealed as a source. Some
15:04:27 41 extreme circumstances, extreme risk that she would be
15:04:31 42 killed as a result. Extreme risk of putting other
15:04:34 43 convictions in jeopardy and that was the decision that came
15:04:37 44 back to you at that point in time?---Yes.
15:04:39 45
15:04:41 46 Were you shocked at that decision?---I don't know if
15:04:49 47 shocked is the right word but - - -

15:04:51 1
15:04:52 2 I don't want to put words in your mouth. You express it -
15:04:55 3 - - ?---Well, the recommendation that I made wasn't
15:04:59 4 accepted, so I suppose I would have at least been
15:05:01 5 disappointed.
15:05:06 6
15:05:14 7 Do you know whether any thought at any stage in this
15:05:18 8 process was given to obtaining any legal advice?---Not that
15:05:27 9 I can recall.
15:05:28 10
15:05:38 11 On 15 June 2009 at paragraph 55 of your statement there's a
15:05:43 12 meeting with, you have a meeting with Detective Inspector
15:05:47 13 Glow, Superintendent Biggin and the SDU members?---Yes.
15:05:50 14
15:05:51 15 Is that when you indicate to them what the decision has
15:05:58 16 been?---I believed it was, yes.
15:06:00 17
15:06:08 18 Mr White's diary and the source management log, it might be
15:06:13 19 easier just to go straight to the source management log for
15:06:16 20 that date. 15 June 2009. This indicates a meeting, I
15:06:59 21 think your diary indicated the meeting was at 9 am and this
15:07:02 22 indicates a meeting with Biggin, yourself, Glow, Fox, Smith
15:07:13 23 and Black, and I think it's in Mr White's diary as well, so
15:07:16 24 he's present, in relation to Task Force Briars attempts to
15:07:24 25 access the SDU contact reports and recordings in relation
15:07:30 26 to Ms Gobbo?---Yes.
15:07:33 27
15:07:42 28 It indicates that there had been a subpoena received in
15:07:46 29 relation to Ms Gobbo relating to Petra?---Yes.
15:07:59 30
15:08:00 31 It seems from what we know that nothing had been disclosed
15:08:03 32 before March of 2010 when that committal commenced in
15:08:09 33 relation to any documents relating to Ms Gobbo, Ms Gobbo's
15:08:14 34 human source file, would that be right?---Yes, that's
15:08:16 35 correct, yes.
15:08:17 36
15:08:17 37 Despite there having been a subpoena in relation to her
15:08:21 38 back in June of 2009, nothing had occurred in terms of that
15:08:27 39 disclosure by March of 2010, that seems to be the
15:08:32 40 case?---That seems to be the case, yes.
15:08:33 41
15:08:38 42 It indicates that SDU were pretty keen for no statement to
15:08:44 43 be taken in relation to Briars?---Yes.
15:08:46 44
15:08:47 45 It's an issue for the steering committee and Danyne and
15:08:52 46 Luke, being Moloney and Cornelius?---Yes.
15:08:56 47

15:08:57 1 And they wanted to listen to every reference to assess the
15:09:01 2 credibility of Ms Gobbo and that's a reference to they
15:09:08 3 wanted the audio recordings relating to Ms Gobbo, as well
15:09:12 4 as the contact reports?---Yes.
15:09:14 5
15:09:14 6 Do you recall that being the case?---Not specifically but I
15:09:19 7 accept that this note is here, yes.
15:09:21 8
15:09:22 9 And then there's a discussion about who's going to pay for
15:09:26 10 transcripts and so forth. "Arrange a meeting and include
15:09:38 11 Superintendent Biggin re who pays the costs"?---Yes.
15:09:42 12 Further down, yes.
15:09:42 13
15:09:44 14 If we go to 16 June 2009. It's the following day. There's
15:09:52 15 a meeting with Mr White, Mr Biggin and Mr Waddell. And
15:09:59 16 Mr Waddell advises that the steering committee had directed
15:10:03 17 that he have access to all the material and make a decision
15:10:06 18 in relation to the viability of her as a witness?---Yes.
15:10:10 19
15:10:13 20 And it's discussed that the tapes would be transcribed for
15:10:20 21 Briars?---Yes.
15:10:21 22
15:10:27 23 If we can go, move on to - it might not be in that
15:10:32 24 document. If we can go to VPL.2000.0001.9713, please.
15:10:55 25 This is a document, the metadata for which indicates that
15:11:00 26 it's a document saved at least on 29 June 2009 and it's
15:11:07 27 saved under the title of "3838 source documentation". It
15:11:12 28 appears to the Commission to be the ICR extracts provided
15:11:18 29 or that were being requested by Operation Briars relating
15:11:23 30 to the names of the people in that list and so
15:11:27 31 forth?---Yes.
15:11:27 32
15:11:27 33 That we earlier had discussed?---Yes.
15:11:30 34
15:11:32 35 I tender that document, Commissioner. Sorry, it's a much
15:11:41 36 longer document. Mr Skim might tell us how many pages.
15:11:48 37 It's 115 page document.
15:11:51 38
15:11:51 39 COMMISSIONER: It's a source management log?
15:11:54 40
15:11:55 41 MS TITTENSOR: It's extracts of the ICR for Operation
15:12:06 42 Briars.
15:12:06 43
15:12:06 44 COMMISSIONER: Is there a date?
15:12:08 45
15:12:09 46 MS TITTENSOR: Saved on 29 June 2009.
15:12:16 47

15:12:18 1 COMMISSIONER: 29 June?
15:12:22 2
15:12:22 3 MS TITTENSOR: 29 June 2009.
15:12:24 4
15:12:25 5 #EXHIBIT RC524A - (Confidential) Extracts of the ICR for
15:12:02 6 Operation Briars 29/06/09.
15:12:26 7
15:12:26 8 #EXHIBIT RC524B - (Redacted version.)
15:12:29 9
15:12:29 10 At this stage it can be a confidential exhibit,
15:12:32 11 Commissioner, we may not at this stage need to make it a
15:12:36 12 public exhibit.
15:12:37 13
15:12:37 14 COMMISSIONER: We have said A and B, A will be
15:12:40 15 confidential, and B if and when it's redacted.
15:12:43 16
15:12:43 17 MR CHETTLE: Commissioner, I don't have this document. It
15:12:46 18 is possible from the description given by Ms Tittensor that
15:12:48 19 it may have been prepared by one of my clients. If it's
15:12:51 20 said to be an extract of the ICRs it seems logical it would
15:12:57 21 be someone. If I could be given a copy of it I will get
15:13:00 22 instructions on who prepared it.
15:13:02 23
15:13:02 24 COMMISSIONER: I'm sure someone will give you a copy of it
15:13:07 25 overnight.
15:13:07 26
15:13:08 27 MS ARGIROPOULOS: Commissioner, can I just request if it's
15:13:10 28 just that one page that's relied on it will obviously be a
15:13:16 29 lot quicker if - - -
15:13:16 30
15:13:16 31 COMMISSIONER: It certainly will. Is it only that page we
15:13:19 32 need or do we need the whole document?
15:13:20 33
15:13:21 34 MS TITTENSOR: I don't envisage that we need the whole
15:13:25 35 document, Commissioner, we can - - -
15:13:29 36
15:13:29 37 COMMISSIONER: If we just do the extracts from that
15:13:38 38 document from 16 September 05 to 30 December 05 and then we
15:13:44 39 should be able to get it PIIed very quickly.
15:13:50 40
15:13:50 41 MR CHETTLE: Can I just approach counsel?
15:13:52 42
15:13:52 43 COMMISSIONER: Yes, of course.
15:14:22 44
15:14:25 45 MS TITTENSOR: If we can go back to the SML which
15:14:29 46 replicates Mr White's diary, please, for 1 July 2009.
15:14:50 47 You'll see this reflects a meeting between Mr White and

15:14:54 1 Detective Inspector Waddell and Operation Briars. It says
15:14:59 2 he's provided a document re SDU intel holdings in relation
15:15:04 3 to Ms Gobbo. So it might be an inference, a safe inference
15:15:10 4 to draw that that previous document was the document that
15:15:14 5 Mr White handed over to Mr Waddell on that day?---Yes.
6
15:24:30 7 It goes on that Mr White was informed by Mr Waddell that
15:24:30 8 Mr Rapke was aware Ms Gobbo is a witness?---Yes.
9
15:24:30 10 Are you aware of what that's about? If that relates to
15:24:30 11 Petra or if it relates to Briars?---Not quite sure. I
15:24:30 12 believe that relates to Petra.
13
15:24:30 14 It may be otherwise because I think it was possibly
15:24:30 15 apparent to Mr Rapke from early days that Ms Gobbo was a
15:24:30 16 witness in any case so that wouldn't have been news at that
15:24:30 17 stage. But I'll move on. Underneath that it
15:24:30 18 indicated - - -
15:24:30 19
15:24:30 20 MS ARGIROPOULOS: Can I just approach my friend?
15:24:30 21
15:24:30 22 MS TITTENSOR: Perhaps we can have a mid-afternoon break at
15:24:30 23 this stage, Commissioner.
24
15:24:30 25 COMMISSIONER: Yes, we'll take the afternoon break.
26
27 (Short adjournment.)
28
15:30:25 29 COMMISSIONER: Yes Ms Tittensor.
15:30:27 30
15:30:27 31 MS TITTENSOR: Thanks, Commissioner. If we can go back to
15:30:30 32 that last SML, please, dated 1 July. There we go. This is
15:31:37 33 a meeting between Mr White and Mr Waddell. The document it
15:31:45 34 seems that we've just seen has been provided by Mr White to
15:31:51 35 Mr Waddell in relation to those intelligence holdings about
15:31:55 36 Ms Gobbo?---Yes.
37
15:31:56 38 That they'd requested?---Yes.
39
15:31:59 40 They're having a discussion about Mr Rapke being aware that
15:32:02 41 Ms Gobbo is a witness. There's then an indication that
15:32:08 42 Tony Mokbel's defence team have subpoenaed VicPol re any
15:32:14 43 material that goes to the credit or otherwise of the main
15:32:17 44 witness against Mr Mokbel in the particular trial that he
15:32:21 45 was facing, do you see that?---Yes.
46
15:32:23 47 And that Briars have attempted to fight that request, which

15:32:27 1 could encompass SDU documents, and have lodged a
15:32:31 2 confidential affidavit before the judge who will not
15:32:34 3 entertain the same, insisting that he runs a transparent
15:32:37 4 court and no secrets will be kept from officers of the
15:32:40 5 court?---Yes.
6
15:32:41 7 Do you recall any confidential affidavit around this time
15:32:45 8 in relation to SDU material?---No, I can't specifically
15:32:51 9 recall it but that doesn't mean that I didn't see something
15:32:53 10 like that around that time.
11
15:33:00 12 There's then an indication that Mr Rapke had advised that
15:33:04 13 the matter may have to go to appeal or be withdrawn, that
15:33:08 14 Mr Waddell was to meet with Acting Commissioner Cornelius
15:33:13 15 in relation to those issues that day, that is 1 July, and
15:33:17 16 that Mr White advised Mr Waddell that Ms Gobbo is not yet a
15:33:22 17 witness and material from the SDU should be subject to a
15:33:26 18 privilege claim?---Yes.
19
15:33:39 20 Your statement indicates at paragraph 57 that on 6 July
15:33:44 21 2009 you met with Acting Commander Rod Journing and Acting
15:33:53 22 Superintendent Glen Wolfe who was someone acting in
15:33:56 23 Mr Biggin's position; is that right?---Yes.
24
15:33:58 25 About SDU issues?---Yes.
26
15:34:03 27 Is it the case that it was likely about these issues
15:34:05 28 relating to Operation Briars?---It could have, yes.
29
15:34:12 30 Mr White's diary indicates that he had general follow-up
15:34:16 31 conversations with the Superintendent and another in
15:34:20 32 relation to the unintended consequences of Ms Gobbo being
15:34:25 33 made a witness for the Briars Task Force. That might seem
15:34:28 34 to indicate that those discussions were still going on
15:34:31 35 around that stage, 6 July?---Yes.
36
15:34:41 37 On 21 to 22 July 2009 were you aware that the SDU were
15:34:45 38 having a workshop at a particular location? Perhaps if I
15:34:53 39 can bring up just on Mr Porter's screen VPL.0100.0120.0001
15:35:01 40 at p.8. Do you see that? That's some minutes of the SDU
15:35:39 41 workshop?---Yes.
42
15:36:00 43 The minutes, if we scroll through them - you can have a
15:36:03 44 look at those things but if we scroll through them. Keep
15:36:08 45 scrolling. Keep going. Eventually we'll get to a debrief
15:36:20 46 in relation to the management of Ms Gobbo. You see there
15:36:32 47 number 9, it's the management of high risk, high management

15:36:36 1 human sources and then a couple of dash points down it
15:36:39 2 starts with Ms Gobbo?---Yes.
3
15:36:46 4 It indicates there, and I said probably earlier on in your
15:36:51 5 examination that we'd come back to this supergrass matter.
15:36:55 6 It's got, "3838 commenced in September 2005. HSMU - 3838
15:37:02 7 was allocated supergrass status and not on HSMU database
15:37:08 8 envelope registration". Can you explain what that
15:37:12 9 means?---So as stated this morning, I'm not aware that the
15:37:20 10 term supergrass was used to describe any type of human
15:37:26 11 source whilst I was at the State Intelligence Division.
15:37:30 12 But an envelope registration means that it was the old
15:37:37 13 pre-2003 process where only perhaps one or two managers
15:37:43 14 knew the identity of the source.
15
15:37:48 16 The next point down indicates that, "Discussed flawed
15:37:53 17 decision to isolate 3838 from registration process.
15:37:56 18 Thought of/treated as special". Do you understand that
15:38:04 19 there was a decision made to isolate Ms Gobbo from the
15:38:08 20 usual registration process?---Well from what you've shown
15:38:13 21 me today it appears so but I certainly wasn't aware of it.
22
15:38:17 23 Do you understand that that might have had implications on
15:38:20 24 the risk assessments that were taken of her?---Well my
15:38:27 25 understanding was that that approach would be contrary to
15:38:30 26 the policy as it existed on the - - -
27
15:38:34 28 This approach that is being outlined here - - - ?---Was
15:38:36 29 contrary to the policy as it existed then.
30
15:38:39 31 Yes. It indicates there that Ms Gobbo had approached other
15:38:46 32 members of the Police Force before being handed to the
15:38:50 33 SDU?---Yes.
34
15:38:51 35 She assisted in relation to other matters?---Yes.
36
15:39:04 37 There's a discussion about the Petra and Briars and source
15:39:08 38 versus witness thing going on there?---Yes.
39
15:39:16 40 If we go further down. Sorry, I'm looking for a particular
15:39:27 41 reference there. About, "If deactivated", do you see that
15:39:34 42 underneath the dash point, "If deactivated would have gone
15:39:44 43 copper shopping". Do you know what that meant?---My
15:39:48 44 interpretation of that is she would have looked to approach
15:39:50 45 other police officers to present them with information.
46
15:39:54 47 Was it your understanding that she just couldn't

15:39:57 1 resist?---I don't think I had that clear understanding back
15:40:06 2 in those days, no.
3
15:40:08 4 But that's the effect of what this is suggesting?---It
15:40:14 5 appears so, yes.
6
15:40:18 7 There appears to be some reference above that to providing
15:40:22 8 legal counsel to others. It's sort of unclear what that
15:40:31 9 means. "If Ms Gobbo was deactivated, not acting as a legal
15:40:36 10 counsel to others, as she was registered, she was providing
15:40:39 11 legal counsel to others", do you see that?---Yes.
12
15:40:42 13 There seems to be some indication of an acknowledgement
15:40:45 14 that she's providing legal counsel to others when she's
15:40:48 15 registered?---It appears so, yes.
16
15:40:56 17 We then come to the worst-case scenario. Reference is then
15:41:02 18 made to the 31 December 2008 briefing note by Mr Black to
15:41:07 19 Mr Biggin?---Yes.
20
15:41:09 21 And a number of those issues are again listed that she - or
15:41:18 22 added to potentially, that she becomes a witness for Briars
15:41:22 23 Task Force because that earlier briefing note related, as
15:41:25 24 it says there, to Petra Task Force?---Yes.
25
15:41:27 26 So we're now listing worst case scenario. She now becomes
15:41:32 27 a witness for Briars Task Force. It comes out that she's a
15:41:35 28 registered human source or she self-discloses as such.
15:41:41 29 There's a Royal Commission. There are retrials of clients
15:41:44 30 of hers?---Yes.
31
15:41:45 32 There's a judicial review of police procedures. There's a
15:41:49 33 future prohibition of the use of lawyers as human sources.
15:41:52 34 Now, did you understand that there was some move on to use
15:41:59 35 other lawyers as human sources?---No. I'm not aware that
15:42:07 36 anyone was trying - was deliberately going out to cultivate
15:42:12 37 lawyers as human sources.
38
15:42:13 39 This worst-case scenario seems to contemplate a situation
15:42:16 40 where police might be prohibited from using lawyers as
15:42:20 41 human sources, do you see that?---Yes.
42
15:42:27 43 It goes on, "Suicide or stroke". A worse case scenario
15:42:32 44 might involve a book or a TV or a movie of what had
15:42:39 45 occurred"?---Yes.
46
15:42:40 47 A refusal by her to give evidence, so we've got no result

15:42:44 1 in the end anyway; that she would be a terrible witness;
15:42:47 2 that the reputation management of Victoria Police would be
15:42:51 3 damaged?---Yes.
4
15:42:51 5 And ultimately it's discussed that there needs to be
15:42:54 6 another meeting with Chief Commissioner of Police Overland
15:42:56 7 and Assistant Commissioner Cornelius to advise of the
15:43:01 8 possible outcomes if Ms Gobbo continues along the path of
15:43:05 9 becoming a witness for Petra and Briars?---Yes.
10
15:43:13 11 Do you know who the Chief Commissioner was at the time, was
15:43:16 12 that Mr Overland by that stage?---Yes.
13
15:43:25 14 If you can go to Mr White's diaries, please, of 31 July
15:43:31 15 2009. Do you know who would receive those minutes of such
15:43:42 16 a workshop? What would be the point of taking those
15:43:46 17 minutes, aside from use within the SDU?---So those minutes
15:43:50 18 would inform future planning for the unit, so it would be
15:43:55 19 the line of management above them may be aware so they sat
15:44:05 20 within the covert - I'm not sure when covert services split
15:44:09 21 in two, but within the division that they sat in.
22
15:44:15 23 I tender those minutes, Commissioner.
24
15:44:20 25 COMMISSIONER: So the minutes of the [REDACTED] workshop on,
15:44:23 26 what was the date?
15:44:25 27
15:44:25 28 MS TITTENSOR: It's the 20th to the 22nd of July 2009 I
15:44:29 29 think. 20th and 21st of July 2009.
15:44:36 30
15:44:37 31 #EXHIBIT RC525A - (Confidential) Minutes of [REDACTED]
15:44:39 32 workshop.
15:44:39 33
15:44:40 34 #EXHIBIT RC525B - (Redacted version.)
35
15:44:55 36 We see here, this is 31 July 2009, there's an entry in
15:44:59 37 Mr White's diary that he meets with Detective Senior
15:45:05 38 Sergeant Iddles. They discuss Ms Gobbo issues. Mr Iddles
15:45:09 39 does not believe the use of Ms Gobbo as a witness is
15:45:12 40 justified. Believes her evidence is insignificant and
15:45:15 41 unreliable. Detective Inspector Waddell is still listening
15:45:20 42 to material supplied by the SDU and would be ready to meet
15:45:24 43 and discuss it within a few weeks?---Yes.
44
15:45:27 45 Following that, during the month of August there's another
15:45:31 46 entry in Mr White's diary of a conversation with one of the
15:45:38 47 handlers at Petra in relation to Ms Gobbo which indicates

15:45:43 1 that there's no statement yet. Then the issue seems to
15:45:49 2 peter off. Can you explain what happened with that
15:45:53 3 issue?---No, so I was moved in the beginning of August - is
15:45:59 4 this 2009, sorry? Sorry. No. No, I can't.
5
15:46:09 6 Do you know where that issue was left or where it went or
15:46:12 7 if there was ultimately some decision that was made, "It's
15:46:16 8 not worth it"?---I can't recall. I can't recall.
9
15:46:30 10 If we can go to VPL.0100.0218.0001, please. This is a
15:47:03 11 document prepared by Mr White dated November 2009 in
15:47:10 12 relation to the Source Development Unit, the value and the
15:47:13 13 future, do you see that?---Yes.
14
15:47:15 15 Do you know what the purpose of this document was?---It
15:47:20 16 appears to be a review of the Source Development Unit and
15:47:27 17 its success or otherwise up to date.
18
15:47:30 19 So it had been operating for a number of years to that
15:47:32 20 point so there was an evaluation of it up to that date and
15:47:38 21 an indication of, "What are we going to do for the
15:47:44 22 future?"; is that right?---Yes.
23
15:47:46 24 Who was this document to be given to?---I would imagine the
15:47:49 25 divisional manager and the department head.
26
15:47:56 27 Who would the divisional manager be?---So it was either
15:48:03 28 Superintendent Biggin or Superintendent Sheridan because
15:48:07 29 the covert division split in two at some stage.
30
15:48:13 31 And the department head?---And the department head in
15:48:18 32 November? It was either Acting Commander Rod Journing or
15:48:25 33 Assistant Commissioner Jeff Pope.
34
15:48:30 35 If we go to p.28 of that document, please. It should be
15:48:46 36 p.20 down the bottom. Sorry. This is a section of the
15:48:56 37 document that deals with the effectiveness of the SDU, you
15:49:01 38 see that?---Yes.
39
15:49:01 40 And it provides a number of performance indicators and a
15:49:09 41 number of requests for assistance and so forth. If we can
15:49:13 42 continue on. Down the bottom it indicates, "Part of the
15:49:18 43 way we evaluate effectiveness is the number of arrests and
15:49:22 44 seizures of property and illicit items", and so
15:49:26 45 forth?---Yes.
46
15:49:26 47 If we can go to p.60. You'll see under the heading - keep

15:49:41 1 going, scroll down. I might have the wrong - sorry, just
15:49:59 2 go to the top of that yellow box. That's fine. If we can
15:50:05 3 go to the top of that yellow box, please. This is under a
15:50:13 4 heading of "Arrests and seizures" that this is given as a
15:50:18 5 particular example of the SDU managing a source and it
15:50:21 6 talks about, "Between September 2005 and January 2009, the
15:50:26 7 SDU managed a particularly high risk and high value source
15:50:30 8 who substantially" - - -
15:50:31 9
15:50:31 10 MR CHETTLE: I'm sorry, Commissioner, but I haven't got
15:50:33 11 this on the screen. There's 52 pages.
15:50:37 12
15:50:38 13 MS TITTENSOR: 52 down the bottom, 60 up the top.
15:50:41 14
15:50:43 15 MR CHETTLE: 52 down the bottom.
15:50:46 16
15:50:48 17 MS TITTENSOR: "And managed a particularly high risk and
15:50:51 18 high value source who substantially contributed to the
15:50:55 19 dismantling of the Mokbel cartel." This is clearly an
15:50:58 20 example of Ms Gobbo?---Yes.
21
15:51:00 22 If we scroll through that, it talks about the risks and the
15:51:05 23 difficulties in relation to her handling. If we go to the
15:51:11 24 next page. "The management of this source occurred over
15:51:19 25 almost three and a half years during which time the source
15:51:23 26 was at great risk of being exposed by court discovery
15:51:25 27 processes. The source did in fact reveal numerous death
15:51:28 28 threats from associates who suspected the source of
15:51:35 29 assisting police", do you see that?---Yes.
30
15:51:37 31 If we go to the following page, there's a discussion about
15:51:40 32 what next presumably for the SDU and it lists some of the
15:51:44 33 major work items to be progressed in 2010 as part of the
15:51:48 34 ongoing strategic agenda and if we scroll through those to
15:51:53 35 number 5. It discusses some research in relation to court
15:52:03 36 matters and source appearances at court and so forth. It
15:52:07 37 notes that, "The court process provides the greatest
15:52:11 38 potential for sources to be compromised simply because the
15:52:13 39 justice system must be transparent and accountable. This
15:52:19 40 works against the interests of human sources whose
15:52:21 41 involvement in police investigations must be kept secret in
15:52:24 42 order to ensure their safety". The report then contains a
15:52:29 43 recommendation number 10, which I think they're all listed
15:52:33 44 on the last page of the document, a recommendation for some
15:52:38 45 commendation of members, members receiving performance
15:52:43 46 reviews - sorry, recommendation number 10. "The efforts of
15:52:53 47 staff attached to the SDU be recognised by way of

15:52:56 1 commendation", do you see that?---Yes.
2
15:53:00 3 Were members receiving performance reviews and promotions
15:53:04 4 presumably on the basis of the perception of results that
15:53:06 5 were being achieved? This is not just in the SDU but
15:53:10 6 across the organisation?---Yes.
7
15:53:15 8 There had been serious flaws and issues discovered and
15:53:20 9 clearly apparent to Command and senior management that had
15:53:25 10 been highlighted from late 2008, certainly, into 2009,
15:53:30 11 prior to the publication of this report. None of that is
15:53:36 12 taken into account, it seems, in this report?---It doesn't
15:53:41 13 appear so.
14
15:53:43 15 Do you know if any of those serious flaws and issues that
15:53:46 16 were apparent from the material that I've taken you through
15:53:50 17 today, was anything done about them?---I'm not aware of
15:53:56 18 anything being done until the first review was conducted, I
15:54:02 19 think it was by Mr Comrie.
20
15:54:05 21 It was apparent from late 2008 into 2009 that there may
15:54:13 22 have been unsafe convictions achieved and that there were
15:54:17 23 ongoing prosecutions occurring that might need to have some
15:54:22 24 serious consideration?---It appears - yes, with what was
15:54:28 25 reported through the involvement with Briars and Petra,
15:54:32 26 yes.
27
15:54:32 28 And is it the case that despite those issues being raised
15:54:37 29 with very senior management and Command, that no legal
15:54:41 30 advice or review was taken in relation to those matters at
15:54:45 31 all?---As far as I know no legal advice was sought.
32
15:54:51 33 Can you explain why that was?---No, not at that stage.
34
15:55:06 35 Are you able to have an attempt at explaining why you think
15:55:11 36 that that might be, to give the Royal Commission a
15:55:16 37 perspective of how Victoria Police operated and why
15:55:20 38 decisions might have been made to not go down that path, to
15:55:23 39 not undertake such a review, to not get legal advice?---I
15:55:30 40 can only offer that in the beginning probably the initial
15:55:34 41 thoughts were that broadening the group of people - or
15:55:39 42 first of all, people who were in a position to offer advice
15:55:42 43 may well have known or had dealings with the human source,
15:55:49 44 and approaching somebody in that position, revealing the
15:55:53 45 fact that this human source existed, may in fact reveal
15:55:57 46 her.
47

15:56:00 1 At this time, 2008/2009, Victoria Police had it's own legal
15:56:05 2 department, Mr McCrae was in charge of the Legal Services
15:56:10 3 Department?---Yes.
4
15:56:11 5 Was there any thought given to speaking to Mr McCrae about
15:56:15 6 it at that stage?---Not whilst I was involved leading up to
15:56:20 7 the involvement with Petra and Briars, and once we become
15:56:30 8 involved with Petra and Briars they moved to make her a
15:56:35 9 witness. I think we're on a road at that point to
15:56:43 10 revealing her as a human source. Perhaps they thought that
15:56:51 11 it would be dealt with through subsequent processes.
12
15:56:55 13 There were processes on foot, in train at this time.
15:57:02 14 Mr Mokbel and his cohort had processes within the courts.
15:57:09 15 There was nothing, no move at all in relation to assessing
15:57:13 16 disclosure for those purposes?---No, not that I'm aware of.
15:57:22 17 For my part the interested parties were the investigators
15:57:28 18 and the managers over the investigators.
19
15:57:30 20 Well is it the case that the interested parties just simply
15:57:33 21 didn't want to face the prospect of this coming out and
15:57:37 22 losing those prosecutions?---I can't say.
23
15:57:49 24 You understand in terms of a decision being made about
15:57:57 25 public interest immunity if the court determines, well,
15:58:03 26 this needs to be disclosed in order for this accused to
15:58:07 27 have a fair trial and the police don't want to disclose it,
15:58:11 28 they've got a choice. They cannot disclose it and lose the
15:58:14 29 prosecution, withdraw the charges?---Yes.
30
15:58:21 31 There is that decision to be made?---Yes.
32
15:58:24 33 That was understood by you and others within Victoria
15:58:27 34 Police?---I understood that that was always possible.
35
15:58:32 36 The case was if Victoria Police didn't want to risk anyone
15:58:36 37 becoming aware of this situation because they thought it
15:58:39 38 was too extreme, then the reality was, well, you don't run
15:58:44 39 that prosecution?---That's correct.
40
15:58:48 41 Nevertheless those prosecutions were run without any advice
15:58:51 42 being sought?---Yes.
43
15:59:06 44 I think it goes without saying that you accept that these
15:59:09 45 issues, these fundamental issues of someone receiving a
15:59:13 46 fair trial, were serious issues that ought to have been
15:59:18 47 raised within the courts and at least considered within the

15:59:22 1 upper echelons of Victoria Police?---Yes.
2
15:59:28 3 Just one further matter. Commissioner, I raised before
15:59:35 4 that there was an email request that hadn't been found and
15:59:39 5 there was a 2 June 2009 report by Smith I think. There's
15:59:47 6 been an email located that may form part of that request so
15:59:52 7 I'll ask for that to be shown. It's VPL.0005.0012.0858.
16:00:24 8 You see it starts with an email from Mr Waddell to
16:00:27 9 Assistant Commissioner Cornelius on 1 June 2009. It
16:00:34 10 indicates that the Source Development Unit had previously
16:00:39 11 provided Briars with access to transcripts relative to
16:00:42 12 Ms Gobbo's contacts with one of the targets, David Waters.
16:00:47 13 It goes on, "I understand that because of the vast quantity
16:00:50 14 of material supplied by this source that in order to
16:00:54 15 quickly provide the transcripts that I have the unit simply
16:00:57 16 do a search on the name of Waters and provide me with all
16:01:00 17 contact reports containing that name. On examining that
16:01:03 18 material and after speaking with Ms Gobbo it appears that
16:01:07 19 we do not have all relevant source contact reports,
16:01:10 20 therefore I would be seeking an additional search to be
16:01:13 21 conducted to provide the Task Force Briars with all contact
16:01:15 22 reports that make reference to the following", and there's
16:01:18 23 that list of names and locations that we - - - ?---Yes,
16:01:22 24 yes.
25
16:01:23 26 - - - referred to before. He believes that there's some
16:01:26 27 missing ICRs that hadn't been provided?---Yes.
28
16:01:33 29 And he's also finally seeking access to all recordings of
16:01:38 30 debriefs relative to the material identified above?---Yes.
31
16:01:44 32 If you scroll up to the end of that. He understands that
16:01:47 33 generally only personal debriefs were recorded, however
16:01:53 34 there were times phone communication might have also been
16:01:56 35 recorded. You were seeking that material to complete the
16:02:00 36 statement made by Ms Gobbo and to satisfy himself that the
16:02:02 37 statement was based upon the best available evidence and
16:02:05 38 that there were no surprises down the track, see
16:02:09 39 that?---Correct, yes.
40
16:02:09 41 If we go right up to the top of that there, that's
16:02:13 42 forwarded by Mr Cornelius to Mr Journing, copied into
16:02:20 43 Mr Waddell and Danye Moloney, and it says what it says
16:02:25 44 there. It seems as though at some stage that's been passed
16:02:29 45 along to the HSMU; is that right?---Yes.
46
16:02:32 47 We don't have that other email train. Anyway, I tender

16:02:37 1 that document, Commissioner.
16:02:41 2
16:02:43 3 #EXHIBIT RC526A - (Confidential) Email train commencing
16:02:45 4 Waddell to Cornelius 01/0 6/09 re
16:02:50 5 request for access to source material.
16:02:59 6
16:03:00 7 #EXHIBIT RC526B - (Redacted version.)
8
16:03:06 9 Did I tender the SDU review, Commissioner, the last
16:03:10 10 document?
11
16:03:12 12 COMMISSIONER: I don't think so. The last one was the [REDACTED]
16:03:22 13 [REDACTED] workshop minutes.
16:03:23 14
16:03:23 15 MS TITTENSOR: There was another review that I finally took
16:03:26 16 the witness to.
17
16:03:27 18 COMMISSIONER: The Value and the Future, I think that may
16:03:30 19 have been tendered.
16:03:30 20
16:03:31 21 MR CHETTLE: That's one of the documents I tendered. This
16:03:34 22 time I am sure, Commissioner.
23
16:03:35 24 COMMISSIONER: I think that's been tendered.
16:03:37 25
16:03:37 26 MS TITTENSOR: It may be that the recommendations were
16:03:39 27 different on this version so perhaps I might be safe and
16:03:44 28 tender that version as well.
29
16:04:00 30 COMMISSIONER: It didn't have the recommendations attached
16:04:02 31 to it apparently, the earlier exhibit, which was 279. So
16:04:05 32 this was the 527A and B will be the SDU, the value and the
16:04:13 33 future, November 2009 document with recommendations.
16:04:18 34
16:04:19 35 #EXHIBIT RC527A - (Confidential) "SDU, the value and the
16:04:13 36 future", November 2009 document with
16:04:17 37 recommendations.
16:04:21 38
16:04:22 39 #EXHIBIT RC527B - (Redacted version.)
16:04:43 40
16:04:44 41 MS TITTENSOR: Those are the questions, thanks Mr Porter.
42
16:04:47 43 COMMISSIONER: Thank you. Mr Collinson.
16:04:49 44
16:04:50 45 MR COLLINSON: Just ten minutes if the Commissioner
16:04:52 46 pleases.
16:04:52 47

1 <CROSS-EXAMINED BY MR COLLINSON:
2
16:04:54 3 Mr Porter, my name's Collinson, I'm one of the counsel for
16:04:59 4 Ms Gobbo. I've got about ten minutes of questions. Can I
16:05:02 5 ask you please to have a look at paragraph 65 of your
16:05:05 6 statement if you've got it there?---Yes.
7
16:05:12 8 You'll see, Mr Porter, I haven't got the actual question
16:05:17 9 you were asked in precise terms but the heading indicates
16:05:21 10 that you were asked in questions 9 and 10 about concerns
16:05:28 11 raised as to the use of a legal practitioner as a human
16:05:34 12 source or the use of Ms Gobbo as a human source, do you
16:05:38 13 recollect that?---That's the question that I was asked,
16:05:40 14 yes.
15
16:05:41 16 Yes?---Yep.
17
16:05:42 18 You said in your answer, "I do not recall any specific
16:05:45 19 discussions about the fact that Ms Gobbo was a lawyer but I
16:05:50 20 expect that they would have occurred and that I would have
16:05:52 21 been involved in at least some of them", and you then
16:05:56 22 continue, "I can recall that the focus of discussions was
16:06:01 23 always around Ms Gobbo's safety"?---Yes.
24
16:06:04 25 And I think a couple of times today you've tended to
16:06:08 26 emphasise, haven't you, that your recollection of issues in
16:06:14 27 your mind concerning Ms Gobbo related mostly to her safety
16:06:18 28 as a human source?---Yes.
29
16:06:23 30 I think it's apparent, isn't it, from paragraph 65 that you
16:06:30 31 don't actually remember specific discussions that you had
16:06:35 32 with anybody about the characteristic of Ms Gobbo that she
16:06:41 33 was a lawyer?---Not specifically, no.
34
16:06:48 35 I'd suggest that that's understandable, isn't it, because
16:06:51 36 by the time you arrived in your role in early 2006 of being
16:07:00 37 in charge of the Central Source Register, Ms Gobbo had
16:07:05 38 already been registered as a human source, hadn't
16:07:08 39 she?---Yes, that's correct.
40
16:07:22 41 Let me approach it this way. If you look at paragraph 68C
16:07:25 42 of your statement you mention there that one of the things
16:07:32 43 that you are educated about at the Police Academy and the
16:07:38 44 Detective Training School is legal professional
16:07:43 45 privilege?---Yes.
46
16:07:43 47 And you've got a recollection of that, do you, that that's

16:07:47 1 one of the topics that's picked up in the course of your
16:07:53 2 education at those places?---Yes. From my earliest days in
16:07:59 3 the Police Force I remember being taught that that
16:08:01 4 privilege was immune from criminal proceedings.
5
16:08:03 6 Yes. That's why I think you drew that distinction, didn't
16:08:09 7 you, elsewhere in your statement between social contacts
16:08:13 8 that Ms Gobbo might have had with members of the criminal
16:08:17 9 community and information that she would gather as a result
16:08:22 10 of directly acting for one of them?---Yes, that's correct.
11
16:08:26 12 Your view, as I would understand it, is that you didn't see
16:08:33 13 a difficulty with Ms Gobbo passing on information to the
16:08:36 14 police that she gathered in a social context from
16:08:41 15 criminals?---That's correct, outside her lawyer/client
16:08:46 16 interactions.
17
16:08:47 18 Yes, yes. I suggest given that you weren't directly
16:08:53 19 involved with Ms Gobbo, would I be right to say you didn't
16:08:59 20 actually probably turn your mind to a sort of mixed
16:09:02 21 scenario where Ms Gobbo's acting for a particular criminal,
16:09:06 22 but also seeing the criminals socially, and to what extent
16:09:11 23 she could pass on information in that kind of
16:09:17 24 situation?---I don't recall thinking about it that deeply.
25
16:09:21 26 Yes?---But at that time I would have thought that there
16:09:26 27 should be a clear distinction in the lawyer's mind of what
16:09:30 28 related to the lawyer/client relationship and what related
16:09:34 29 to social activity.
30
16:09:39 31 Your view at the time would have been, are you saying -
16:09:42 32 don't let me put words in your mouth, but are you saying
16:09:46 33 that information that the lawyer passed over that wasn't
16:09:50 34 legally professionally privileged arising from acting for
16:09:54 35 the client, that shouldn't be passed on to the police but
16:09:59 36 information that didn't fall into that category but
16:10:03 37 gathered in a social setting could be?---Yes.
38
16:10:09 39 I think it's right to say, isn't it, that you obviously
16:10:12 40 don't at the Academy or the Detective Training School,
16:10:18 41 apart from legal professional privilege, you're not taught
16:10:21 42 about lawyers' ethics?---No, not that I can recall.
43
16:10:26 44 Yes. One of the matters that Ms Tittensor has raised with
16:10:32 45 you today was questions associated with a conflict of
16:10:36 46 interest that a lawyer might have, do you recall some of
16:10:39 47 those questions?---Yes.

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So it might be put that even if Ms Gobbo gathered information in a social setting, she might nonetheless be in breach of her duty to avoid a conflict?---Yes, that could happen, yes.

But am I right to say you didn't really put your mind to that issue back when you were engaging in the activities that you describe in your statement, in other words you didn't think about the question of conflict?---Whilst discussing the fact that she was a lawyer we would have, my mind would have passed over conflict or the issue of conflict generally.

Well, be careful with that. When someone says "would have" it often can be controversial. It's a question of are you really confident in the witness box now, Mr Porter, that you would have thought about conflict of interest issues associated with Ms Gobbo back in 2006 and so on, in the period 2006 to 2009?

COMMISSIONER: Perhaps better to say "did you" rather than "would have".

MR COLLINSON: Yes?---Yeah, I can't really - I can't say with certainty that I did, and I think I've probably got a better understanding of professional conflict now than what I had back then.

MR COLLINSON: I might suggest - yes?---My memory can be, may be distorted.

Yes. I'm not really suggesting distortion, I'm merely suggesting by reason of your role and the fact that Ms Gobbo had already been registered and that you didn't get specific training about lawyers' ethics and conflict issues, I'm suggesting to you really that it's unlikely that you thought about the subject of lawyers' conflict obligations back in the period 2006 to 2009, so what do you say to that?---I think I would have given thought to the fact that I wouldn't have expected her to act in the conflict with a client's interest out of that lawyer/client relationship, but probably not much further than that.

You certainly don't remember discussing conflict of interest issues with anybody within the police in relation to Ms Gobbo?---No, I don't remember it, no.

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16:13:10 Am I right to say you also don't have a specific
16:13:15 recollection of discussing issues associated with legal
16:13:20 professional privilege in relation to Ms Gobbo with anybody
16:13:23 within the police in this period 2006 to 2009?---Only in
16:13:31 the context of the material that we've covered today with
16:13:34 regards to discovery.

16:13:39 I'm not quite sure I follow what you mean by that
16:13:44 answer?---So - - -

16:13:47 I'm just putting to you, I'm just saying sitting there in
16:13:50 the witness box right now and doing the best you can, can
16:13:55 you remember discussing legal professional privilege in
16:14:02 relation to Ms Gobbo with anyone within Victoria Police in
16:14:06 the period 2006 to 2009?---Not specifically, no.

16:14:11 It's quite possible you didn't, I suggest?---I would expect
16:14:23 that I was involved in conversations about the fact that
16:14:26 she was a lawyer and what effect that would have on the
16:14:30 relationship that we had with her as a human source. I
16:14:34 can't say with any confidence that I specifically discussed
16:14:42 the issue with any other member. But I would expect that
16:14:47 it would have been covered in some discussions.

16:14:54 All right. There's nothing in any of your diaries, I take
16:15:15 it, recording you discussing legal professional privilege
16:15:19 with any other Victorian Police member in relation to
16:15:22 Ms Gobbo?---No, the entries in my diaries are minimal,
16:15:27 deliberately so, because the more material you record in
16:15:30 the diary the more - the higher the probability is that a
16:15:35 person could be identified from that entry.

16:15:38 I'll just ask you one more question. My suggestion to you
16:15:41 would be that if you had discussed legal professional
16:15:47 privilege issues in relation to Ms Gobbo with Mr White or
16:15:50 Mr Smith or somebody, it's something you would recollect
16:15:56 now? And I say that because it was very unusual, I take
16:16:06 it, wasn't it, for you to see that a lawyer had become a
16:16:09 human source?---Yes.

16:16:11 So given that unusual feature, my suggestion to you is if
16:16:16 you really did have a discussion with someone about it,
16:16:19 it's the kind of thing you'd remember?---I can't stress
16:16:26 enough the risk to her personal safety in engaging with us
16:16:37 as a human source and how that really was the dominant
16:16:41 issue.

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16:16:42 2 Yes?---Whenever there was discussion about her.
3
16:16:47 4 Yes?---I would expect that other things were discussed
16:16:51 5 other than that, but I can only recall now that dominant
16:16:57 6 issue.
7
16:16:58 8 So you can remember Ms Gobbo being talked about in her
16:17:02 9 capacity as a lawyer from the perspective of the risk to
16:17:06 10 her life?---Yes.
11
16:17:08 12 You can remember that?---Yes.
13
16:17:10 14 But you don't have a specific recollection about
16:17:13 15 discussions about legal professional privilege or
16:17:18 16 conflict?---No.
17
16:17:18 18 No more questions.
19
16:17:20 20 COMMISSIONER: Thanks Mr Collinson. Mr Chettle.
16:17:23 21
16:17:23 22 MR CHETTLE: Yes, thank you, Commissioner.
23
16:17:25 24 COMMISSIONER: I'm sorry, it's late in the day again,
16:17:27 25 Mr Chettle. Will you be very long?
16:17:31 26
16:17:32 27 MR CHETTLE: Yes, I will be an hour or so for sure.
28
16:17:34 29 COMMISSIONER: Okay.
16:17:35 30
31 <CROSS-EXAMINED BY MR CHETTLE:
32
16:17:40 33 Can I ask you, firstly, you stopped work at HSMU or as the
16:17:44 34 source registrar in 2010; is that right?---Correct.
35
16:17:47 36 And then you went to HR; is that right?---No, no, I went to
16:17:52 37 another area, a project.
38
16:17:55 39 Right. Did you maintain an interest or observation of what
16:18:00 40 was happening at the SDU and HSMU after you left or did you
16:18:04 41 leave it behind?---I was interested in the members but I
16:18:10 42 did not maintain any understanding or any contemporary
16:18:17 43 understanding of their business.
44
16:18:18 45 You mentioned before the Comrie report. When Mr Comrie did
16:18:24 46 his report in relation to the SDU were you consulted at
16:18:28 47 all?---No.

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When Mr Kellam, Justice Kellam conducted his IBAC inquiry, were you consulted in relation to that?---No.

Are you aware that there was a Covert Services Intelligence Review in 2012 that saw ultimately the disbandment of the SDU?---I believe I learnt about it after the fact, yes.

Again, my question, were you asked any questions about the activities of the SDU at the relevant time?---No.

So nobody's ever approached you to ask you your opinion about the way the SDU operated during 2005 to 2009?---That's correct.

As far as you're concerned your job was to - you're effectively the auditor, aren't you, at least in your local source management role?---When I first arrived at the State Intelligence Division I really had two functions to perform over the business of what was then called the Dedicated Source Unit and shortly after I relinquished one of those functions.

Because of the conflict issue?---Yes.

I understand that, you were supervising yourself?---Yes.

But leaving that aside, how long was that? About six months, something like that?---No, no. So I arrived in March and I know that at the latest it was transferred at the end of June but it may have been informally transferred before that.

It was in that interim period that Mr Biggin was asked to do the independent review of the SDU because he was then in a different division?---Yes.

But ultimately he came across to line management as a result really of what you were saying about re-organising your position?---Yes.

HSMU though, I think from what you say, continued to have the obligation to audit and keep an eye on the activities of the SDU to ensure they complied with policy?---That's correct.

In one of the answers you gave to the Commissioner you said

16:20:49 1 when you became the CSR people at HSMU did that for you, or
16:20:55 2 something to that effect?---Yes, that's correct.
3
16:20:57 4 You were still the officer-in-charge of HSMU I take
16:21:02 5 it?---The senior manager over that unit and many other
16:21:06 6 units but the HSMU was within my control.
7
16:21:13 8 Who was in charge of HSMU when you became the Central
16:21:21 9 Source Register, or don't you know?---I think it was Acting
16:21:28 10 Inspector Jeff McLean.
11
16:21:31 12 So there would be an Inspector in charge of that unit, or
16:21:37 13 hopefully there would be?---Yes.
14
16:21:41 15 Did that unit suffer from the problems that the SDU
16:21:44 16 suffered from in only having a part-time Inspector or did
16:21:47 17 they have a dedicated Inspector?---When I first arrived
16:21:52 18 they were managed by an Acting Inspector and when we
16:21:57 19 transitioned into business as usual they went down to
16:22:02 20 Detective Senior Sergeant. So a Detective Senior Sergeant
16:22:06 21 was in charge of the unit and they reported through to the
16:22:09 22 Inspector from State Intelligence Operations, who then
16:22:15 23 reported to me.
24
16:22:15 25 Who was that?---At that time Doug Calishaw.
26
16:22:21 27 What I'm trying to get at is who's responsible for
16:22:24 28 maintaining the audit standards over the SDU so far as HSMU
16:22:28 29 is concerned, does it ultimately rest with
16:22:33 30 you?---Ultimately with the Central Source Registrar, yes.
31
16:22:37 32 If there was a glaring breach of policy or something that
16:22:40 33 you thought was being done the wrong way, it was your job
16:22:44 34 to deal with it?---Yes.
35
16:22:49 36 It follows from what you said before to Mr Collinson that
16:22:53 37 at no stage did you ever raise any concerns with any of the
16:22:58 38 SDU operators about the fact that they had Ms Gobbo as a
16:23:01 39 human source?---There were many concerns, you know, with
16:23:10 40 regards to the risk that using her as a source created.
41
16:23:17 42 My question - I understand you say there were. Did you
16:23:20 43 raise them with any members of the SDU?---Yes.
44
16:23:23 45 Who did you raise those concerns with?---Officer White.
46
16:23:26 47 What were the concerns you raised?---How are we doing this?

16:23:31 1 How are we mitigating the risk?
2
16:23:34 3 What risk are you talking about?---The main risk was the
16:23:37 4 risk to her personal safety.
5
16:23:38 6 I'm not talking about - look, the unit as you knew looked
16:23:42 7 after a lot of high risk, a number of high-risk informers,
16:23:47 8 didn't it?---Yes.
9
16:23:51 10 That's the SDU?---Yes.
11
16:23:51 12 It's not uncommon for high-risk informers to be at risk of
16:23:55 13 death, is it?---No, not that uncommon.
14
16:24:03 15 I don't want to say anything about other sources but, for
16:24:07 16 example, if you were dealing with a group like outlaw
16:24:11 17 motorcycle gangs you'd be at severe risk, wouldn't
16:24:15 18 you?---Yes.
19
16:24:17 20 What I'm trying to suggest to you is it's not uncommon to
16:24:21 21 be at risk of serious injury or death. If you're an
16:24:26 22 informer and you get caught, you're going to get
16:24:29 23 hurt?---That's correct.
24
16:24:31 25 Right. With Ms Gobbo, of course, you appreciated the risk
16:24:34 26 because the people she was informing on were known killers,
16:24:37 27 basically?---Correct.
28
16:24:40 29 That I understand. But did you ever have a discussion with
16:24:44 30 anybody from the SDU about risks associated with her being
16:24:47 31 a lawyer as distinct from a potential victim?---I expect
16:24:56 32 that I would have had conversations but I can't recall
16:24:59 33 them.
34
16:24:59 35 This is just the point you raised with Mr Collinson a
16:25:02 36 moment ago. You would have thought you would have but you
16:25:04 37 have no note of any such discussion?---That's correct.
38
16:25:07 39 And you can't recall any such discussion?---Not
16:25:09 40 specifically, no.
41
16:25:14 42 I think you say in your statement that there were
16:25:17 43 discussions with Mr White about her use as a lawyer or
16:25:25 44 managing - I'm just trying to find it - managing legal
16:25:30 45 professional privilege, or have I got that wrong? Do you
16:25:36 46 recall any conversations about the issue of legal
16:25:38 47 professional privilege?---I can't recall any specific

16:25:42 1 conversations, no.
2
16:25:46 3 Clearly you understood - - -
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16:25:48 5 COMMISSIONER: Paragraph 26 he mentions - - -
16:25:50 6
16:25:51 7 MR CHETTLE: Thank you, Commissioner.
8
16:25:53 9 COMMISSIONER: He makes a mention of it there, the last
16:25:54 10 sentence.
16:25:56 11
16:26:10 12 MR CHETTLE: 26 says that you don't recall any such
16:26:14 13 discussions. I might be wrong. I apologise, I only got
16:26:16 14 this statement last night. 33, is it? Thank you. That's
16:26:33 15 correct, that's what I was looking at. Have you got
16:26:37 16 paragraph 33 there?---Yes.
17
16:26:39 18 This touches on what I was just asking you about, doesn't
16:26:41 19 it, Mr Porter? "I do not recall specific discussions about
16:26:45 20 privilege risks but I understood that Victoria Police had
16:26:48 21 to be careful not to receive or act on information passed
16:26:51 22 on in a lawyer/client context and only information provided
16:26:56 23 in the context of a personal or social relationship with
16:26:59 24 criminals", right?---Yes.
25
16:27:00 26 And that understanding, you think, must have come from a
16:27:04 27 discussion you had with Mr White?---Yes, and I also believe
16:27:12 28 Officer Black.
29
16:27:14 30 Did you have any discussion in that regard with Mr Biggin
16:27:16 31 at any stage?---I can't recall. I may have.
32
16:27:26 33 However you got it, you had a firm belief that legally
16:27:33 34 professionally privileged information was not being
16:27:36 35 targeted?---That's correct.
36
16:27:44 37 Did you understand that legal professional privilege did
16:27:46 38 not apply to current or future criminal activity by a
16:27:51 39 person? That is if you go in to see a lawyer in relation
16:27:56 40 to an anticipated or a pending court case, if at the same
16:28:01 41 time you were involved in ongoing criminal activity, that
16:28:05 42 activity isn't covered?---I'm not sure that it isn't
16:28:12 43 covered, is it? My understanding is that if a person
16:28:18 44 approaches a lawyer and says that, "I'm involved in an
16:28:23 45 activity, I need your advice on whether it's" - sorry.
46
16:28:28 47 And you're right. In the sense if it's in the course of a

16:28:31 1 legal professional advice situation?---Yes.
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16:28:33 3 The client wants help in relation to a problem it's
16:28:37 4 got?---Yes.
5
16:28:38 6 If the client comes in and says to the lawyer, "I want you
16:28:40 7 to defend me because I'm on trial", for example, "for drug
16:28:44 8 importation", and then over dinner tells the lawyer that he
16:28:48 9 or she is involved in importing large amounts of drugs,
16:28:52 10 would you expect that to be covered?---No.
11
16:28:56 12 If the client is seeing the lawyer for the purposes of
16:29:01 13 doing a plea for some amphetamine cooks that the client has
16:29:07 14 carried out and then goes on to tell the lawyer that he's
16:29:12 15 conducting further cooks, would you expect that to be
16:29:17 16 covered?---No.
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16:29:18 18 Okay. For whatever the reason you understood that what SDU
16:29:24 19 were doing was not getting information that came from the
16:29:29 20 lawyer/client relationship and, if they did, they weren't
16:29:33 21 disseminating it?---That's correct.
22
16:29:35 23 You got copies of everything they in fact produced, did you
16:29:41 24 not? By you I mean the HSMU?---Yes.
25
16:29:44 26 Copies of the audiotapes were copied regularly to the HSMU
16:29:52 27 records?---Yes.
28
16:29:53 29 And indeed in order to ensure that those documents were
16:29:57 30 provided to HSMU, at some stage there was an issue about
16:30:01 31 whether they had or hadn't and a receipt system was
16:30:04 32 implemented in order that - HSMU would give a receipt for
16:30:07 33 the tape recordings they received, do you recall that?---I
16:30:13 34 can't recall. I don't deny it.
35
16:30:14 36 All right.
37
16:30:15 38 COMMISSIONER: Yes, you're right, it's 4.30. How much
16:30:19 39 longer will you be?
40
16:30:21 41 MR CHETTLE: An hour at least, Commissioner.
42
16:30:23 43 COMMISSIONER: Ms Argiropoulos, will you be long in
16:30:26 44 re-examination?
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16:30:27 45
16:30:28 46 MS ARGIROPOULOS: No, Commissioner.
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COMMISSIONER: The Commission?

MS TITTENSOR: I might have one or two questions.

COMMISSIONER: Yes, all right. At 9.30 tomorrow we'll deal with some matters involving Ms Gobbo first in public hearing. I think the witness doesn't need to come, a 9.45 would be fine. Mr Flynn, who's been waiting all day today, won't be needed before 11.15 tomorrow.

MS TITTENSOR: Thank you, Commissioner.

COMMISSIONER: We'll adjourn until 9.30. I should also mention that tomorrow we'll sit until 4.30.

<(THE WITNESS WITHDREW)

ADJOURNED UNTIL FRIDAY 20 SEPTEMBER 2019