

ROYAL COMMISSION INTO THE MANAGEMENT
OF POLICE INFORMANTS

Held in Melbourne, Victoria
On Monday, 21 October 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
Counsel for State of Victoria	Mr C. McDermott
Counsel for Nicola Gobbo	Mr R. Nathwani
Counsel for DPP/SPP	Ms K. O'Gorman
Counsel for CDPP	Ms R. Avis
Counsel for Police Handlers	Mr G. Chettle Ms L. Thies
Counsel for Faruk Orman	Mr M. Koh
Counsel for Pasquale Barbaro	Mr C. Wareham
Counsel for AFP	Ms I. Minnett
Counsel for Chief Commissioner of Police	Mr P. Silver
Counsel for ACIC and Department of Home Affairs	Ms R. Curnow
Counsel for Officer Richards	Mr A. Purcell

09:43:45 1 COMMISSIONER: Yes, I understand we're still in open
09:43:47 2 hearing.
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09:43:48 4 MR WINNEKE: Yes, Commissioner, we are.
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09:43:49 6 COMMISSIONER: Yes. And appearances are as they were when
09:43:51 7 we last sat, save that we have Ms Avis for the Commonwealth
09:43:57 8 DPP, Mr Silver is appearing alone this morning for
09:44:04 9 Mr Ashton and Ms Curnow is appearing for the Department of
09:44:08 10 Home Affairs. Yes, Mr Winneke.
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09:44:09 12 MR WINNEKE: Thanks, Commissioner.
09:44:10 13
09:44:11 14 <OFFICER RICHARDS, recalled:
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09:44:14 16 MR WINNEKE: Are you there, Mr Richards?---Yes, I am.
17
09:44:17 18 I was asking you questions a week ago about some events
09:44:23 19 which occurred around 30 and 31 December of 2008, do you
09:44:29 20 recall that?---Yes, I do.
21
09:44:31 22 I think we finished up by asking you - you were going to
09:44:36 23 consult your electronic diary to see where you were on the
09:44:42 24 morning of 31 December; is that right?---Yes, that's
09:44:44 25 correct. So apologies for my lack of memory there, I have
09:44:50 26 had a look and, yes, I was there.
27
09:44:54 28 That was a fairly significant time at the SDU, I take it,
09:44:58 29 because there was a real concern about what was going to
09:45:01 30 happen with Ms Gobbo, do you accept that proposition?---I
09:45:08 31 absolutely accept that a SWOT was conducted and needed,
09:45:18 32 absolutely, yes.
33
09:45:18 34 You were a participant in that process, I take it?---Yes, I
09:45:22 35 was.
36
09:45:22 37 What does your diary say on 31 December about that?---That
09:45:26 38 I attended at the meeting.
39
09:45:29 40 Is that all it says?---Yes.
41
09:45:31 42 Can you read out your entry for that day, please?---"Office
09:45:40 43 meeting regards to RS2958" and meeting concluded after
09:45:46 44 that.
45
09:45:46 46 What time did it start?---In my diary I have it at 08:45
09:45:53 47 hours and concluding at 10:20 hours.

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09:45:57 2 All right?---That's what I was there for.
3
09:46:01 4 Righto. I wonder if you could have a look at a document
09:46:07 5 VPL - perhaps if this only goes on my screen. I think it
09:46:16 6 can go all the screens, it can't be read.
09:46:26 7 VPL.0100.0001.3155. This is an extract of a diary from
09:46:36 8 Mr Black and his entry commences at 8.50, so about the same
09:46:43 9 time, and he says that you were there and he says that he
09:46:46 10 was there. He says that Mr Smith was there. I think there
09:46:51 11 was a Mr Anderson there?---Yes.
12
09:46:56 13 Do you know who they are?---Yes, I do.
14
09:47:00 15 There were a couple of other people there, perhaps we won't
09:47:04 16 worry about that at this stage. There was a meeting to
09:47:10 17 discuss the assorted issues of Ms Gobbo making a statement
09:47:14 18 and that's your recollection?---That would be correct, yes.
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09:47:19 20 And the objective was, that is the objective of Petra Task
09:47:23 21 Force, was for Ms Gobbo to give evidence and there was a
09:47:30 22 strategic analysis to be undertaken against the objective
09:47:34 23 being sought, so in other words it was being proposed that
09:47:38 24 she give evidence. Can you see that document in front of
09:47:42 25 you there?---Yes, I can.
26
09:47:44 27 You see the people who are present, I've identified four of
09:47:48 28 them. There are two there, the initials which you can
09:47:51 29 see?---Yes.
30
09:47:52 31 Have you got a list of names there in front of you?---Yes,
09:47:55 32 I do, yes, yes.
33
09:47:57 34 Can you tell us who those people are?---Mr Black, Mr Smith.
35
09:48:08 36 Mr Green I think it is, the second one?---No, it's Black,
09:48:17 37 Smith. The last one is - sorry, my apologies.
38
09:48:25 39 Black, Green, Smith?---And Anderson is the last one. I'm
09:48:28 40 just looking for the names of the other one. Just excuse
09:48:32 41 me, I'll try and find where the names may be.
42
09:48:40 43 COMMISSIONER: If you've got Exhibit 1 there.
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09:48:45 45 MR WINNEKE: I think you'll find they're analysts. They're
09:48:48 46 sworn members but they're analysts?---That would be
09:48:51 47 correct, yes.

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I think we've got the names there but I haven't got them immediately in front of me. We know who they are, they're two female police officers who are analysts attached to the SDU, correct?---They were two analysts, yes, attached to the SDU.

It was noted that an appointment had been made by Petra to take a statement?---Yes.

Petra needs the statement otherwise they'll be unable to charge Paul Dale. But the statement will outline embarrassing incidents for the human source, Ms Gobbo. There's a question of the fitness of Ms Gobbo to make a statement, do you see that?---Yes.

Do you have a recollection of what those issues were surrounding the fitness of Ms Gobbo to make a statement?---No, sorry, I can't recall that, no.

Do you have recollection of Ms Gobbo at any time that you had knowledge of her or dealings with or about her being medically unwell?---Yes.

What was your recollection about that?---She - 3838 had medical issues, absolutely.

Yes?---The specifics, I believe - I couldn't give you some specifics from a medical point of view but absolutely she had periods of physical injuries.

Then there's the question of her role, criminal liability regarding the murders of the Hodsons. Now are you able to expand on that? Do you know what was discussed there?---No, the specifics of the conversation - as I say, I think it was an hour or so conversation in 2008 so, no, I'm sorry, I can't help you.

No, I understand that. Do you recall that there had been some concern expressed by members of the SDU that she may have had some sort of criminal involvement in those murders? Was that a concern, do you recall?---I don't recall the specifics but I cannot agree with that statement.

She wants the SDU to brief Petra regarding her assistance to Victoria Police?---Yes.

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09:51:09 2 She's now a witness or a source, do you recall - - -
09:51:14 3 ?---Yes.
4
09:51:15 5 - - - anything about that?---Again, not specifically. I
09:51:18 6 think the document that would have followed from that
09:51:22 7 briefing would give clarification to that.
8
09:51:28 9 Then there's a reference to Witsec conducting an assessment
09:51:33 10 and Petra are seeking to cover three points. The first is
09:51:38 11 the use of bogus mobile phones with Carl Williams, Nicola
09:51:45 12 Gobbo and Paul Dale. So were you aware that there was an
09:51:49 13 issue which had recently arisen in which it had become
09:51:52 14 apparent that Ms Gobbo had been using bodgie mobile phones,
09:51:59 15 to use that expression, to communicate with Paul Dale and
09:52:05 16 Carl Williams?---I understand the term. Do I know about
09:52:12 17 it? For a general term probably historically I've known
09:52:15 18 that. I'm not sure whether I've known that at the time.
19
09:52:19 20 The other issue was known meeting contact between Williams
09:52:22 21 and Dale via phones on 5 May 2004, do you recall that - - -
09:52:28 22 ?---Yes.
23
09:52:30 24 - - - being discussed?---I recollect that incident. I'm
09:52:32 25 not sure it was discussed at the meeting though.
26
09:52:36 27 There was another issue that Petra apparently wanted to
09:52:39 28 cover and that was the tasked meeting of Ms Gobbo with Paul
09:52:43 29 Dale on 7 December by Petra which was recorded. I take it
09:52:50 30 at that stage you were aware of the fact that Ms Gobbo had
09:52:54 31 been tasked to meet with Paul Dale?---Yes, that's correct.
32
09:52:59 33 Were you aware whether or not Ms Gobbo was - her attitude
09:53:07 34 to doing that, did you know anything about that at all or
09:53:13 35 not?---No, not personally, no.
36
09:53:15 37 Do you say now looking back you can't recall or you simply
09:53:20 38 didn't know then and now you still don't know?---From
09:53:28 39 recollection I'm not sure. I really can't honestly put a
09:53:32 40 finger on whether it was a positive, negative or a neutral.
41
09:53:36 42 All right. That meeting then concludes and you say about
09:53:43 43 25 past 10; is that right?---Yes.
44
09:53:47 45 In your diary what do you do then, what does it say you
09:53:52 46 do?---I then had other duties with other sources after
09:53:59 47 that.

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09:53:59 2 Right. It seems that's occurred then is, if we scroll
09:54:04 3 down, we can see that at 10.30 certainly Mr Black notes
09:54:09 4 that he concludes the meeting and then he works on a
09:54:12 5 briefing note for Superintendent Biggin as had been
09:54:17 6 requested?---Yes.
7
09:54:18 8 And a copy was reproduced below after all the SDU checked
09:54:25 9 it, do you see that?---Yes.
10
09:54:28 11 What I suggest to you is that this briefing note had been
09:54:33 12 prepared by Mr Black but it wasn't sent until all of the
09:54:39 13 members of the SDU, including you, had checked the briefing
09:54:42 14 note. Do you accept that proposition?---Yeah, I have
09:54:47 15 nothing to doubt that.
16
09:54:49 17 Indeed, before I go through the briefing note and ask you
09:54:52 18 some questions about it. If we go down to the next page,
09:55:01 19 you'll see an entry at 12.20. If we keep going down,
09:55:06 20 you'll see there that he's made a note to this effect, that
09:55:10 21 he's called - let's assume that that's Sandy White, and
09:55:15 22 he's left a message with respect to the Petra briefing note
09:55:46 23 in conjunction with the current controller and there's your
09:55:50 24 name there, do you see that?---Yes.
25
09:55:57 26 And ongoing updates and developments from the source. The
09:56:00 27 handler, Mr Green, had calls by then with Mr White, the
09:56:09 28 Petra Task Force investigators. So at that stage you were
09:56:12 29 the controller of Ms Gobbo?---That's correct.
30
09:56:17 31 It would be fair to assume that you being the controller
09:56:21 32 and being a member of the SDU, you would have been provided
09:56:27 33 with and you would have considered the matters in the SWOT
09:56:31 34 analysis which is effectively the briefing points, do you
09:56:36 35 accept that?---Yes, I do.
36
09:56:38 37 It appears to be the case that that was not sent off until
09:56:44 38 everyone had checked it and been satisfied that the
09:56:47 39 contents of it conformed with the collegiate view, if you
09:56:52 40 like, of the SDU, do you accept that?---Yes, that's fair.
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09:56:55 42 All right. If we then go back to the top of the - or the
09:57:01 43 start of that entry at 10.30. It appears that this
09:57:07 44 analysis has been prepared and it's what's known as a SWOT
09:57:12 45 analysis. I take it you're aware of those sorts of things,
09:57:15 46 a SWOT analysis?---Yes.
47

09:57:18 1 It goes through a number of things to do with this
09:57:22 2 proposition of converting Ms Gobbo into a witness and the
09:57:27 3 SDU has undertaken a strategic analysis of that objective
09:57:32 4 and the implications are outlined below. There are some
09:57:39 5 strengths which are identified. "The information evidence
09:57:41 6 is critical to support serious charges." The possible
09:57:45 7 prosecution against Dale and others. The other strength
09:57:49 8 might be the disengagement of the SDU from the management
09:57:54 9 of that individual. So obviously there was a view within
09:58:16 10 the SDU at that stage that it would be preferable if
09:58:20 11 Ms Gobbo was no longer a human source?---Yes, that's fair.
12
09:58:27 13 At that stage it was becoming quite apparent that there
09:58:29 14 were a whole lot of problems with respect to the use of
09:58:32 15 Ms Gobbo as a human source?---That's correct.
16
09:58:38 17 The weaknesses of the proposal. The first one is that
09:58:43 18 there was the possibility of the OPI and government review
09:58:47 19 into the legal and ethical implications, do you see
09:58:52 20 that?---Yes.
21
09:58:53 22 That was a review into the legal and ethical implications
09:58:59 23 of using Ms Gobbo as a human source, do you accept
09:59:03 24 that?---No. I think if you go back up to what the
09:59:05 25 objective of the SWOT was it was in relation to the
09:59:08 26 providing of a statement to Petra.
27
09:59:10 28 You think that relates to an OPI government review into the
09:59:14 29 legal and ethical implications into making a statement?---I
09:59:18 30 think that's what you showed me on the page upwards which
09:59:21 31 was what the objective of the SWOT was.
32
09:59:24 33 What I suggest to you is it's far broader than that and
09:59:28 34 it's not simply confined to the legal and ethical
09:59:32 35 implications of using her to be a witness, but it's far
09:59:37 36 broader than that and it includes the ethical implications
09:59:40 37 and the legal implications of Ms Gobbo's previous use as a
09:59:48 38 human source within the SDU?---No, I - - -
39
09:59:51 40 You disagree with that?---Yes, I do disagree with that.
41
09:59:54 42 It would result in the disclosure of a long-term
09:59:59 43 relationship with the SDU?---I see that line, yes.
44
10:00:01 45 See, just go back to that first point. Did you not accept
10:00:05 46 the proposition previously that there was, and there had
10:00:09 47 been, division within the SDU about the use of Ms Gobbo as

10:00:12 1 a human source and that division had existed right the way
10:00:17 2 through?---That's fair to say, yes.
3
10:00:27 4 Nonetheless you say that the legal and ethical implications
10:00:31 5 are confined to the conduct of Victoria Police around
10:00:33 6 December 2008, January 2009; is that right?---Yeah, as per
10:00:38 7 Mr Black's notes it was, the SWOT analysis was for the
10:00:42 8 making of a statement for Petra.
9
10:00:45 10 Righto. We'll keep going and we'll see if you change your
10:00:47 11 view about that. There's time sensitive matters for
10:00:51 12 Ms Gobbo. There's medical conditions, medication and no
10:00:54 13 time to plan. So that was a point that was considered; is
10:00:59 14 that right?---Excuse me, I'm just looking for that line
10:01:02 15 you're talking about.
16
10:01:03 17 It's about the third dot point in the "weakness"?---Yes,
10:01:06 18 yes.
19
10:01:06 20 So obviously the view was that there's little time to plan
10:01:12 21 for Ms Gobbo given her medical conditions and the
10:01:15 22 medication that she was on?---That would be fair
10:01:19 23 considering the purpose of the SWOT analysis, making a
10:01:24 24 statement and Witsec issues, yeah.
25
10:01:26 26 Were you aware at that stage that she was on significant
10:01:29 27 amounts of pain killing medication?---As I said previously
10:01:33 28 when you asked about my knowledge of her medical condition,
10:01:37 29 I'm not sure exactly what she was on. That doesn't
10:01:40 30 surprise me in the slightest though.
31
10:01:43 32 There was concern - one of the weaknesses was that the
10:01:46 33 relationship with VicPol could be adversely affected, and
10:01:50 34 then there was issues with respect to her credibility, her
10:01:53 35 acquaintances, criminal associates and sexual
10:01:58 36 relationships?---Yes.
37
10:01:59 38 Next one, damage to her business reputation. It would be
10:02:03 39 likely that she would lose her reputation and her business
10:02:07 40 as a consequence of giving evidence?---Yes, I see that.
41
10:02:11 42 In other words, that if she were to give evidence that
10:02:15 43 would be the end of her reputation as a barrister?---Yes,
10:02:23 44 absolutely, I would have thought.
45
10:02:25 46 And certainly if her previous relationship with Victoria
10:02:30 47 Police came to light as a consequence it wouldn't just be

10:02:33 1 the fact that she was giving evidence against the person,
10:02:38 2 it would be all of that information about the fact that
10:02:40 3 she'd been a human source in relation to people she had
10:02:44 4 purported to act for over quite some years, do you accept
10:02:48 5 that?---Not in the context of that sentence where it talks
10:02:52 6 about the reputation. So presumably if she gives a
10:02:55 7 statement she'll be called as a witness, so therefore
10:02:59 8 that's what it relates to from my understanding.
9
10:03:02 10 You say that purely relates to giving evidence?---Yes,
10:03:05 11 which is what the line says there is a consequence of
10:03:08 12 giving evidence, yes.
13
10:03:09 14 Equally, I mean if you have a look at the second point,
10:03:12 15 there's the disclosures of the long-term relationship with
10:03:15 16 the SDU. That would cruel her reputation as well, wouldn't
10:03:19 17 it?---I'm just looking for that. Yes, yes, it would,
10:03:23 18 correct.
19
10:03:26 20 So you'd have to accept then that the ideas, the things you
10:03:31 21 were thrashing around were the fact that if this came out
10:03:35 22 the reality is it would be known that she was an informer
10:03:40 23 and had provided evidence or information against people who
10:03:43 24 she had, at least in public, purported to act for when
10:03:49 25 behind the scenes she was providing information to police
10:03:51 26 about those people. That would be the end of her
10:03:54 27 profession as a barrister, wouldn't it?---That's probably a
10:04:00 28 separate question to what's written in the diary of Officer
10:04:03 29 Black, but I don't disagree with that.
30
10:04:06 31 Were you aware that - I think during the course of the time
10:04:08 32 that you were controller there's references to ICRs
10:04:14 33 indicating that she was talking about needing legal
10:04:16 34 representation before various Ethics Committees which she
10:04:20 35 was bound to end up having to appear before?---I'm not
10:04:25 36 aware of that.
37
10:04:26 38 If you were the controller and there was information coming
10:04:29 39 in via handlers one assumes that you would have been made
10:04:34 40 aware of that?---Yes, correct.
41
10:04:36 42 Ultimately the purpose of this SWOT analysis was really to
10:04:39 43 stop her from being a witness, that's the purpose of this
10:04:43 44 whole exercise, isn't it?---Absolutely. I go back to what
10:04:46 45 the point is and making the statement for Petra.
46
10:04:51 47 What you were doing is that you were coming up with all of

10:04:55 1 the arguments that would convince the management not to
10:04:59 2 call her as a witness?---I disagree with that. There's a
10:05:05 3 SWOT analysis so it provides from an environmental scan all
10:05:10 4 the strengths, weaknesses, opportunities and threats.
5
10:05:14 6 Nonetheless, it was the collegiate view of the SDU that
10:05:17 7 this was a very bad idea?---I would say that's fair.
8
10:05:24 9 I'm sorry?---I would say that's fair.
10
10:05:27 11 This was designed - I mean if you weigh up on the balance
10:05:31 12 the weaknesses and the threats, they totally outweigh and,
10:05:36 13 I suggest, were designed to outweigh the strengths and
10:05:39 14 opportunities?---I would think that if you start off with a
10:05:45 15 goal in mind the SWOT will be flawed.
16
10:05:49 17 Is that what you say?---Yes, so therefore I think the idea
10:05:54 18 of a SWOT is to thrash out and understand all those
10:05:58 19 particular points in the SWOT analysis and come to a
10:06:01 20 conclusion post thinking about what the strengths,
10:06:05 21 weaknesses, opportunities and threats are.
22
10:06:09 23 What was your conclusion at the end of it?---That from a
10:06:12 24 consensus point of view I would agree with exactly what's
10:06:15 25 in Mr Black's notes.
26
10:06:16 27 The end view of Mr Black and the other members of the SDU,
10:06:20 28 certainly as far as you're concerned, was that it would be
10:06:24 29 preferable that she not be exposed as a witness?---I agree,
10:06:28 30 yes.
31
10:06:29 32 And that was to stop her being exposed as a human source,
10:06:35 33 her role as a human source being exposed primarily?---I
10:06:41 34 think if we look at the witnesses there's a whole range and
10:06:45 35 cast of witnesses in that particular course of action.
36
10:06:48 37 Yes?---Not just that, we were looking at her health and
10:06:52 38 business reputation and everything else.
39
10:06:55 40 There was a reference to prior inconsistent statements,
10:07:02 41 verbal statements, do you see under the - - - ?---I see
10:07:05 42 that line, yes.
43
10:07:06 44 SDU regarding the relationship with Dale and the failure to
10:07:09 45 disclosure the bogus mobile phone numbers?---Yes, I see
10:07:14 46 that.
47

10:07:14 1 That's a failure to disclose to the SDU; is that
10:07:18 2 correct?---I believe so.
3
10:07:21 4 There's a note there about the SDU not being aware of all
10:07:24 5 the intel held by the Petra Task Force and there's a
10:07:26 6 reference to a number of names there that you can see, do
10:07:31 7 you accept that?---Yes. Yes, I accept that.
8
10:07:34 9 Those were matters that were discussed, do you accept
10:07:36 10 that?---Yes.
11
10:07:37 12 The view taken was that the SDU shouldn't be seen to be
10:07:40 13 giving advice on the issue, the decision is to be reached
10:07:44 14 by the human source regarding the making of a
10:07:47 15 statement?---Yes, I see that.
16
10:07:49 17 And her assistance to Victoria Police was known to numerous
10:07:54 18 investigators because of the passage of time. Was that
10:07:58 19 recognised?---Yes, I see that line there.
20
10:08:08 21 As a consequence of that, because of those - the knowledge
10:08:13 22 of the numerous investigators, they may end up being called
10:08:20 23 to give evidence, those investigators?---Sorry, can you
10:08:27 24 repeat that? I was trying to read at the same time.
25
10:08:29 26 Okay. If those investigators were called to give evidence
10:08:34 27 in a trial in which Ms Gobbo was a witness and her role had
10:08:38 28 been exposed, those investigators would then be asked
10:08:43 29 questions of their knowledge of Ms Gobbo's
10:08:46 30 involvement?---Yes, correct, sorry, yes.
31
10:08:48 32 That was obviously considered to be a weakness of the
10:08:54 33 suggestion?---Yes, that's right.
34
10:09:05 35 I mean it was always a possibility that if those
10:09:09 36 investigators gave evidence they might be asked awkward
10:09:13 37 questions in any event about their knowledge of
10:09:18 38 Ms Gobbo?---Absolutely, I agree, yes.
39
10:09:22 40 And then there's a reference to the costs incurred as a
10:09:26 41 consequence of making Ms Gobbo a witness, they could be
10:09:30 42 substantial. So there's a reference there to the loss of
10:09:33 43 income arising from her loss of business. She's unlikely
10:09:36 44 to be able to continue working as a barrister and then
10:09:40 45 other costs concerning relocation, et cetera, if her entire
10:09:46 46 role became known. So the entire role is not simply her
10:09:50 47 role as a witness, and indeed it's a reference not to her

10:09:55 1 role as a witness but her entire role being her role as a
10:09:59 2 human source?---I would say entire role encompasses both
10:10:02 3 being a human source and a witness.
4
10:10:07 5 The word "if" suggests, assuming she's a witness, then
10:10:11 6 there's at least a chance that her entire role would then
10:10:15 7 become known. So she'd be known as a witness because that
10:10:19 8 would be obvious, but once she's a witness there's a
10:10:21 9 possibility of her other role, that is her role as a human
10:10:25 10 source, becoming known?---Yeah, I agree. It's both,
10:10:29 11 absolutely.
10:10:29 12
10:10:30 13 Do you recall there ever being a desire on the part of the
10:10:34 14 SDU, once it became apparent that she was going to be
10:10:40 15 called as a witness, do you recall having discussions with
10:10:44 16 any other of your fellow members of the SDU about the
10:10:48 17 possibility that it could still be kept secret? When I say
10:10:56 18 - her role as a source?---Yeah, look, I specifically can't
10:10:58 19 remember that but that would absolutely be a possibility.
20
10:11:01 21 So even if she was to give evidence, do you recall - it's
10:11:04 22 your view that there was a desire nonetheless to keep out
10:11:11 23 the fact that she'd been a human source?---I think that's
10:11:13 24 the desire of the organisation as a whole, that the role or
10:11:17 25 identity of sources are never compromised.
26
10:11:21 27 Ultimately there was what was called a break barrier put in
10:11:26 28 place with what might be regarded as a forlorn hope that
10:11:31 29 that would prevent her role becoming apparent even were she
10:11:35 30 to give evidence?---I'm not aware of that term. I haven't
10:11:38 31 heard of that.
32
10:11:39 33 No. Do you recall having discussions with Mr White about
10:11:41 34 the possibility of amending her statement to remove the
10:11:46 35 information about the fact that she had known that she was
10:11:49 36 going to be wired before she spoke to Mr Dale, do you
10:11:53 37 recall that?---I'm sorry, I do recall the event but you're
10:12:00 38 talking about a conversation with Mr White about something,
10:12:02 39 I'm not sure.
40
10:12:04 41 You can't recall having a discussion about taking sentences
10:12:06 42 out of her statement to fuzzy it up a bit to suggest that
10:12:10 43 someone else had recorded the conversation without her
10:12:13 44 knowing, you don't recall anything like that?---No. I'm
10:12:17 45 not saying it didn't happen but, no, I can't remember.
46
10:12:22 47 Then there were opportunities and they're set out in

10:12:26 1 sub-paragraph C, "Consider deactivation as a human source
10:12:30 2 as she's now a witness"?---Yes.
3
10:12:32 4 So that was an opportunity. She should seek legal
10:12:36 5 advice?---Yes.
6
10:12:37 7 And then there's a reference to her having already obtained
10:12:46 8 legal advice at previous hearings from a person by the name
10:12:48 9 of Ian Hill, do you see that?---Yes, I see that.
10
10:12:53 11 Did you know at that stage that she had earlier sought
10:12:56 12 legal advice from Mr Hill about whether she should be
10:13:00 13 giving evidence or should be able to be forced to answer
10:13:03 14 questions before Mr Fitzgerald, do you recall that or
10:13:06 15 not?---No.
16
10:13:06 17 That is at an OPI hearing?---No.
18
10:13:09 19 No. All right. Then an opportunity would be for VicPol to
10:13:17 20 finalise the relationship with Ms Gobbo and a settlement of
10:13:21 21 a substantial cash reward owed to Ms Gobbo, do you see
10:13:25 22 that?---Yes. Yes, I see that.
23
10:13:31 24 Was there a view within the SDU that Ms Gobbo was entitled
10:13:38 25 to a substantial cash reward?---From my point of view
10:13:42 26 absolutely, that 3838 was entitled to a reward for her
10:13:47 27 involvement with VicPol, yes.
28
10:13:52 29 Then she could be - an opportunity would be, her being
10:13:57 30 forced to attend a hearing and there's a reference to Dale
10:14:03 31 having attended recent hearings and lied about meeting
10:14:08 32 Williams and surveillance corroborating Williams using
10:14:12 33 those mobile phones, corrupt relationship between Dale and
10:14:15 34 Williams, and then there's a reference to Witsec and
10:14:19 35 possible relocation, do you see that?---I see those notes,
10:14:23 36 yes.
37
10:14:24 38 They were the opportunities that were considered?---Yes.
39
10:14:30 40 I take it the opportunities and the strengths are the
10:14:39 41 points that might be put on the positive side of using her
10:14:42 42 as a witness, is that right, or am I wrong about
10:14:46 43 that?---That's fair.
44
10:14:46 45 If we counterbalance that, we've got to look at the
10:14:49 46 weakness and the threats, so B and D, is that
10:14:54 47 right?---Agree.

1
10:14:55 2 If we can move on to the threats. Obviously disclosure of
10:14:59 3 her role may result in death or serious injury?---Yes.
4
10:15:02 5 That would be her role as an informer, I assume?---I'd take
10:15:09 6 it back again to the nature of why we're doing a SWOT
10:15:13 7 analysis and that's to make a statement.
8
10:15:14 9 Yes. And the risk that it would expose her long-term
10:15:19 10 relationship with Victoria Police. Again, that would apply
10:15:22 11 to both, wouldn't it?---Agree, yes.
12
10:15:25 13 Then there's a reference to at that stage her not wanting
10:15:28 14 to enter into a full Witsec program?---Yes.
15
10:15:31 16 And there's another reference to Witsec policies. Then it
10:15:36 17 says this, "If she makes a statement a duty of care is owed
10:15:41 18 to a now Crown witness", and obviously that's a reference
10:15:45 19 to Victoria Police owing her a duty of care I assume, is
10:15:49 20 it?---That would be fair, yes, absolutely.
21
10:15:52 22 Is that a reference to potential civil liability or is it a
10:15:58 23 reference simply to an obligation to ensure that she's kept
10:16:02 24 safe, what do you understand?---From my point of view it's
10:16:06 25 the safety of the witness.
26
10:16:10 27 And then there's the "status of the individual witness or
10:16:13 28 source?" Do you know what that question was raised
10:16:17 29 for?---Not specifically that one line, no. Sorry, I can't
10:16:21 30 help you.
31
10:16:21 32 "The exposure of the source as a consequence of becoming a
10:16:27 33 Crown witness." That's another, I suppose something that's
10:16:32 34 really been already counted up on the weakness side?---Yes.
35
10:16:36 36 "Judicial review of police actions in tasking and deploying
10:16:42 37 one of their own"?---Yes.
38
10:16:46 39 Can I ask you this: why would that have been put in both
10:16:50 40 the "weakness" and the "threat" columns?---I think I agree
10:16:59 41 with you and your point to say that those two are fairly in
10:17:03 42 the same bucket.
43
10:17:03 44 They may well be but what's the difference between
10:17:07 45 weaknesses and threats?---In relation to providing a
10:17:10 46 statement? The - - -
47

10:17:12 1 No, in relation to a SWOT analysis. What's the threat? To
10:17:16 2 whom is a threat relevant?---You're probably testing my
10:17:21 3 memory in relation to the exact descriptions of the threat
10:17:25 4 versus a weakness. The threat is something that could
10:17:31 5 possibly happen and a weakness is something that goes
10:17:34 6 pretty much against what the analysis is for.
7
10:17:37 8 I take it threat isn't just a threat to Ms Gobbo, it's a
10:17:42 9 threat, for example, to Victoria Police?---Well the SWOT's
10:17:48 10 based on what the primary objective of the analysis falls,
10:17:53 11 so therefore the threat is in relation to the making of the
10:17:56 12 statement.
13
10:17:57 14 I follow that. That's what's being considered. But what's
10:18:00 15 the threat to? One assumes the threat is to something or
10:18:05 16 somebody. What I'm suggesting to you is the threat is to
10:18:09 17 not just Ms Gobbo but to Victoria Police?---Absolutely it
10:18:14 18 is. I'm not sure if it's in that line per se but I agree
10:18:17 19 with your statement.
20
10:18:18 21 Yes. So one of the threats to Victoria Police is the
10:18:21 22 exposure of her as a source as a consequence of becoming a
10:18:25 23 Crown witness, that's a threat to Victoria Police. The
10:18:27 24 next one is the threat of judicial review of police actions
10:18:32 25 in tasking?---Yes.
26
10:18:33 27 And deploying Ms Gobbo?---Yes, I see that line.
28
10:18:37 29 What sort of actions were being considered there which
10:18:40 30 might be the subject of judicial review?---As I said with
10:18:48 31 some of the other lines, I can't remember specifically what
10:18:52 32 that one line refers to.
33
10:18:54 34 It would be review of the police's conduct in tasking and
10:19:00 35 deploying a barrister?---That's what the line says,
10:19:05 36 absolutely, I agree.
37
10:19:07 38 Why was the SDU concerned about - why was that regarded as
10:19:15 39 a threat, that is judicial review of police actions?---I'm
10:19:23 40 trying to think about - I think, you know, one of the
10:19:26 41 questions I'd have to ask Mr Black about is what exactly he
10:19:30 42 wrote on the notes that deduced from the conversation we
10:19:34 43 had.
44
10:19:35 45 Yes?---It could be but to be fair it could be anything.
10:19:37 46 I'm not discounting anything from that.
47

10:19:40 1 No, no, I follow that. But the reason it's in the "threat"
10:19:42 2 column is because if there's a judicial review of the
10:19:45 3 police conduct it's not going to be good, it's bad if that
10:19:49 4 happens?---Yeah, absolutely it's a threat. The exposure of
10:19:54 5 police methodology, the potential to expose other human
10:19:59 6 sources.
7
10:19:59 8 Yes?---Yeah, there's a whole raft of implications with that
10:20:06 9 exposure.
10
10:20:11 11 Petra has tasked Ms Gobbo to recording a meeting with Dale
10:20:15 12 on Sunday 7 December?---Yes.
13
10:20:21 14 That's obviously part of the threat analysis. She's never
10:20:25 15 admitted criminal activity to the SDU. However it appears
10:20:28 16 that the SDU suspects that part of the motivation of
10:20:33 17 Ms Gobbo to assist is a guilty conscience. Do you recall
10:20:37 18 what the discussions were around that?---Around her
10:20:42 19 motivation?
20
10:20:44 21 Yeah, and her guilty conscience?---I don't know about the
10:20:48 22 "guilty conscience" remark, and it's not in these notes,
10:20:53 23 but I'm fully aware that no one had a clear understanding
10:21:00 24 of the motivation, or that's my take on it.
25
10:21:03 26 Was there a suspicion on the part of the SDU that she had -
10:21:05 27 when I say the SDU, members of the SDU, that she had a
10:21:09 28 guilty conscience?---From an overall perspective I can only
10:21:17 29 comment on what I believed.
30
10:21:19 31 What did you believe?---I had no idea to be honest.
32
10:21:23 33 You didn't add that particular paragraph or sentence?---No.
34
10:21:26 35 No doubt it was something that was discussed and you didn't
10:21:32 36 disagree with it in any event?---Correct. I don't discount
10:21:39 37 that at all.
38
10:21:40 39 "Public interest immunity", do you know why that was put
10:21:46 40 there?---No, the line doesn't give me much to go on. The
10:21:54 41 PII and well connected.
42
10:21:56 43 To the Victorian legal fraternity?---Yeah.
44
10:22:01 45 So you're not too sure what that was all about?---No.
46
10:22:06 47 Well obviously what it suggests is that - you know all

10:22:10 1 about public interest immunity and that's a claim made by -
10:22:13 2 - - ?---Yes.
3
10:22:14 4 - - - Victoria Police if there's the likelihood of a
10:22:20 5 reference to a human source, do you accept that?---Not just
10:22:24 6 human source, covert methodology, assumed identities, the
10:22:28 7 whole - - -
8
10:22:29 9 In this particular instance we're talking about a human
10:22:32 10 source, aren't we?---Not sure. The line just talks about
10:22:36 11 PII and HS is well connected. So, I'm sorry, I'm not sure
10:22:41 12 that I can read that much into that one line.
13
10:22:44 14 The concern was that the claim for public interest immunity
10:22:47 15 wouldn't be upheld?---From that one line, I have no idea.
16
10:22:51 17 You're aware that certainly up until this point her role in
10:22:58 18 any of the matters which had either gone to hearing,
10:23:06 19 whether by way of committal or trial at that stage, her
10:23:09 20 role hadn't come out?---I would agree with that, yes.
21
10:23:19 22 There'd been concerns, I take it you're aware that there
10:23:23 23 had been concerns expressed by a number of members of the
10:23:26 24 SDU as time went along that there was at least a
10:23:29 25 possibility of her role coming out but so far up until this
10:23:32 26 point in time that had been suppressed?---Yeah, I'd agree
10:23:37 27 with that.
28
10:23:38 29 And the desire was that her role continue to be suppressed,
10:23:43 30 that's what this whole exercise is about, I suggest?---I'm
10:23:51 31 sorry, I don't understand your question.
32
10:23:53 33 Her role as a human source, the desire was it be
10:23:56 34 suppressed, it continue to be suppressed?---Are you talking
10:24:01 35 in general or in relation to the SWOT analysis?
36
10:24:04 37 I'm talking in general?---Absolutely agree.
38
10:24:06 39 It hadn't even got to the court. So no court had at this
10:24:12 40 stage become aware that Ms Gobbo was a human
10:24:15 41 source?---Correct.
42
10:24:15 43 Because it had been suppressed by the conduct of Victoria
10:24:22 44 Police up until this point?---I'm not quite sure I
10:24:27 45 understand what you mean by "suppressed". I think I, I
46 think I know what you're saying.
47

10:24:29 1 You think you know what I'm saying?---I think so.
2
10:24:33 3 Well what do you say?---Yes, I agree.
4
10:24:38 5 Then there's reference to health again, she used/prescribed
10:24:45 6 the sort of medication up to 180 milligrams of morphine a
10:24:49 7 day for chronic pain, possibly suffering depression,
10:24:53 8 although not diagnosed. She has over the course of the
10:24:56 9 last two years suffered significant weight loss and lack of
10:25:00 10 appetite. Clearly there's a reference to the health issues
10:25:03 11 that we were talking about before?---Yes.
12
10:25:07 13 Indeed, she'd spoken of suicide but states that she would
10:25:12 14 not seriously contemplate such a course of action?---Yes, I
10:25:16 15 see that.
16
10:25:17 17 She'd suffered a stroke in 1995, which is inaccurate, it
10:25:20 18 occurred in July 2004, but nonetheless it was something
10:25:24 19 that was known by the members of the SDU that she'd
10:25:26 20 suffered a stroke, do you agree with that?---Yes, I believe
10:25:30 21 it, yes.
22
10:25:31 23 She's concerned about the safety and welfare of her
10:25:34 24 relatives, do you accept that?---Yes.
25
10:25:37 26 "Unknown motivation for Ms Gobbo to make a
10:25:40 27 statement"?---Yes.
28
10:25:41 29 Are you aware that there had been pressure put on her by,
10:25:45 30 certainly by members of Purana, pressure put on her to make
10:25:51 31 a statement?---Yeah, I believe so, yes.
32
10:25:56 33 Source contact reports, SCRs or ICRs, and covert recordings
10:26:03 34 may well be disclosed?---Yes.
35
10:26:05 36 That would be a threat?---Yes, that would be a threat.
37
10:26:14 38 There's time sensitive matters, unknown issues to Petra
10:26:17 39 Task Force and VicPol Command. Do you recall what, or can
10:26:22 40 you explain that time sensitive unknown issue to Petra Task
10:26:28 41 Force and VicPol Command?---No, I don't know the time
10:26:31 42 sensitivity per se.
43
10:26:32 44 And the role of the Petra Task Force still not known by the
10:26:36 45 SDU?---Yes, I see that.
46
10:26:38 47 Coming back to the OPI review which had been referred to in

10:26:43 1 the "weakness" column. It's again referred to as a
10:26:45 2 "threat" column. What we see here is, "Serving barrister
10:26:49 3 assisting police, consideration of unsafe verdicts", do you
10:26:54 4 see that?---Yes, I do.
5
10:27:05 6 Again, that's something which was a matter of concern to
10:27:08 7 members of the SDU I take it?---Yes.
8
10:27:14 9 There was a discussion about the possibility of verdicts
10:27:17 10 which had been achieved already, those being unsafe?---Yes,
10:27:25 11 I see that.
12
10:27:26 13 The reason it was considered to be so was because you have
10:27:31 14 a serving barrister assisting police, do you see
10:27:37 15 that?---Yes, I see that.
16
10:27:38 17 That was something that was discussed?---Yes.
18
10:27:43 19 When did you first discuss that concern?---I'm sorry, I
10:27:49 20 couldn't put a finger on that. I'm not sure.
21
10:27:51 22 See, you've given evidence previously about there being
10:27:59 23 concerns at various stages about Ms Gobbo being a human
10:28:02 24 source?---Yes.
25
10:28:02 26 And division within the SDU. What I suggest to you is that
10:28:06 27 these views, which were thrashed out on 31 December, didn't
10:28:12 28 just occur on 31 December, these had been views which had
10:28:16 29 been held by members of the SDU for a significant period of
10:28:22 30 time beforehand, do you agree with that proposition?---I
10:28:26 31 think that proposition's fair.
32
10:28:28 33 So who held the view within the SDU that there was a
10:28:32 34 concern about using a barrister against clients to provide
10:28:37 35 assistance to police? Who within the SDU held those
10:28:40 36 concerns, all of you?---I can only speak for myself, and as
10:28:47 37 I said to you previously I think from a public perception
10:28:51 38 point of view with those that don't understand any of the
10:28:53 39 covert methodology or the reasons why or the implications
10:28:56 40 of what was happening at the time, it would have looked
10:28:59 41 really bad.
42
10:29:00 43 Just let's read it. "Consideration of unsafe verdicts,
10:29:04 44 serving barrister assisting police." Then it goes on to
10:29:10 45 say "possible appeals", right, "prosecutions current Mokbel
10:29:15 46 and future?"?---Yes.
47

10:29:17 1 Regardless of whether it's about perceptions or whether
10:29:21 2 it's about actually conduct which has deprived people of a
10:29:27 3 fair trial, and not just a perception that it has, what I
10:29:31 4 suggest to you is that these were genuine concerns held by
10:29:35 5 members of the SDU, including yourself?---So I agree with
10:29:42 6 what's written there in those notes absolutely from my
10:29:46 7 point of view, yes.
8
10:29:48 9 Can I just put something to you. At some stage later on in
10:29:57 10 2009 Mr Black - and I gather you were still at the SDU in
10:30:04 11 2009?---Yes, that's correct.
12
10:30:10 13 And you were aware that not only was Ms Gobbo - was there a
10:30:16 14 desire for Ms Gobbo to make a statement to assist the Petra
10:30:20 15 Task Force, there was subsequently a desire on the part of
10:30:24 16 Briars for her to make a statement and assist in that
10:30:28 17 prosecution as well, you're aware of that?---Yes, I am.
18
10:30:32 19 You were, in 2009, one of the two [REDACTED] - you'd
10:30:40 20 been upgraded by that stage, you were a [REDACTED],
10:30:43 21 weren't you?---Yes, I believe so, yes.
22
10:30:48 23 One of the concerns - perhaps if we go to
10:30:57 24 VPL.0100.0001.3172. Do you see - at this stage we know
10:31:23 25 that Ms Gobbo had already made a statement and had been in
10:31:27 26 effect exposed as a witness in the Petra matter, but then
10:31:30 27 there was a desire to use her in Briars and in effect the
10:31:34 28 issues arose again and these issues were again thrashed out
10:31:41 29 by way of arguments put by the SDU to prevent Ms Gobbo from
10:31:49 30 being forced to be a witness or to make a witness statement
10:31:54 31 in the Briars matter. You understand that that was going
10:31:57 32 on in 2009?---I'm not - yeah, I'm not quite sure whether I
10:32:05 33 understood the intricacies but, yes, absolutely agree.
34
10:32:11 35 The view was taken at that stage that Ms Gobbo may well be
10:32:19 36 a witness in Petra but it might be possible to keep her
10:32:24 37 previous role as a human source secret because of the way
10:32:30 38 in which the statement had come about in Petra,
10:32:36 39 right?---Yes.
40
10:32:38 41 And because of the fact that Petra had arranged for the
10:32:42 42 taping, there'd been a break between the use of Gobbo as a
10:32:46 43 source, it may well be conceivable that her role could
10:32:52 44 still be kept secret even as a witness in the Petra
10:32:57 45 proceeding, but the view was taken that with Briars that
10:33:00 46 would be far more difficult, do you understand that?---I
10:33:04 47 understand the proposal, yes.

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And that by the time of this note, which as I understand it was on 3 June 2009, a draft statement had been taken by Messrs Iddles and Waddell from Ms Gobbo in Bali in relation to the Briars matter. Do you understand - you're aware of that?---No.

Right. In any event, I just want to see if this is of any assistance to you when we consider the problems about Ms Gobbo's exposure as a witness, whether it be Briars or Petra, and the potential for OPI or a review of the conduct of Victoria Police. Do you see at the bottom of that page there are six points: sterile corridor principles, then disclose of individual's assistance to VPL, one, as a tasked source; two, who is a active barrister; three, visiting clients; four, clients who think that they have privilege in their communications with Ms Gobbo; five, clients who believe that they're speaking with their legal representative; six, that very person who then passes the information to police. Do you see those points there?---I see those points, yes.

Over the page, "Seven, the human source then continues to act for that client; and eight, furthermore, the human source then convinces the client to plead guilty", do you see that?---Yes, I see that.

Can I suggest to you that those were the very matters that were concerning members of the SDU not just in June of 2009, not just in December of 2008, but throughout the period and certainly after Ms Gobbo did all of those things. Do you accept that proposition?---No, I don't accept that.

You don't accept that?---No, there's a blanket you put over about six or seven points and I'm - yeah.

Which of the points don't you accept?---So you said from the start of the handling of 3838?

Yes. What I'm talking about is, I said from the time that those matters eventuated. So we know, for example, about what occurred in - and I'm not going to mention names - in April of 2006?---Yes.

And at a time when you were at the SDU?---Yes.

10:35:57 1 That Ms Gobbo had been tasked against a certain
10:36:01 2 person?---Yes.
3
10:36:01 4 The role of Ms Gobbo was in effect to bring down the
10:36:04 5 Mokbels, you understand that?---Yes.
6
10:36:07 7 She was at that stage acting for Tony Mokbel, you
10:36:11 8 understood that?---Yes.
9
10:36:14 10 She was also acting for the person who she was tasked
10:36:18 11 against?---I'm not aware of - no, I'm not aware of that
10:36:24 12 particular incident.
13
10:36:27 14 Well let's say that she was tasked to provide information
10:36:32 15 in relation to a particular person from the period of about
10:36:36 16 September of 2005 through to the time of an arrest which
10:36:41 17 occurred in April of 2006?---I can't comment on that, I
10:36:50 18 wasn't at the SDU then.
19
10:36:52 20 You started shortly - - - ?---Sorry, I apologise. 2005. I
10:36:58 21 wasn't at the SDU then.
22
10:37:00 23 No, but you started I think in about May of 2006; is that
10:37:04 24 right?---Yes, so that doesn't fall in those timeframes
10:37:07 25 you're talking about.
26
10:37:08 27 These were matters which were being discussed, as you say,
10:37:14 28 at regular meetings, risk analyses and so forth?---Yes, I'd
10:37:18 29 agree with that.
30
10:37:18 31 From the time that you commenced - indeed, you were a
10:37:20 32 controller for Ms Gobbo during a period that you were at
10:37:24 33 the SDU, weren't you upgraded?---Once or twice I believe,
10:37:28 34 yes.
35
10:37:29 36 So you are aware that she was visiting clients, clients who
10:37:32 37 think they have privilege, clients who believe they're
10:37:36 38 speaking with their legal representative and that very
10:37:38 39 person who then passes information to police and then she
10:37:40 40 continues to act for that client and then convinces the
10:37:44 41 client to plead guilty. Those were the very matters of
10:37:47 42 great concern to members of the SDU from at least April of
10:37:50 43 2006 and thereafter?---So I can only give my point of view
10:37:56 44 and I'm happy to go with you point by point to give you my
10:38:01 45 understanding of what those points are from my point of
10:38:04 46 view.
47

10:38:05 1 All right. You go through, which ones - - - ?---I'm on
10:38:08 2 p.154 at the moment.
3
10:38:09 4 Yes?---So "HS convinces the client to plead guilty", so
10:38:17 5 therefore if I look at it from a generalistic point of view
10:38:22 6 - and I'm not trying to be difficult, I'm just - - -
10:38:24 7
10:38:24 8 No, no. Why don't we go back to the previous page?---Yep.
9
10:38:26 10 Go through it. Tell me what you say about those?---As a
10:38:28 11 tasked source - - -
12
10:38:29 13 She's an active barrister, you accept that?---Yes.
14
10:38:33 15 She visits clients?---I accept that, absolutely.
16
10:38:35 17 She speaks to clients who believe that they are speaking to
10:38:39 18 a barrister and therefore they think that what they're
10:38:43 19 saying to their barrister is confidential?---So they're two
10:38:46 20 different points from my understanding. So the first point
10:38:48 21 is she was an active barrister. Absolutely agree. We've
10:38:52 22 talked about public perception. Visiting her clients.
10:38:55 23 Absolutely. I accept that she visits her clients.
24
10:38:58 25 Yes?---Clients have privilege when they're talking about
10:39:02 26 their matters before the court. Clients who believe they
10:39:06 27 were speaking to their legal rep, which is pretty much the
10:39:11 28 same as having the matter before a court and talking about
10:39:14 29 their court case. The person then passes information to
10:39:18 30 the police, I agree with that statement, yes.
31
10:39:20 32 Over the page?---Yep.
33
10:39:23 34 Then she continues to act for the client, do you agree with
10:39:27 35 that?---Sorry, I can hardly see that. Yes, absolutely,
10:39:35 36 yes. That would be right.
37
10:39:36 38 And then convinces the client to plead guilty?---So from a
10:39:39 39 legal profession I would presume that there are cases when
10:39:45 40 barristers push their clients to plead guilty. I don't see
10:39:48 41 that as something specific to 3838.
42
10:39:51 43 No, no, I follow that. But if that person who convinces
10:39:54 44 the client to plead guilty is in actual fact an agent of
10:39:58 45 Victoria Police, right, and she convinces her client to
10:40:03 46 plead guilty as an agent of Victoria Police, that would be
10:40:07 47 problematic, would it not?---Say that again? I think I can

10:40:11 1 separate that out. If 3838 is acting in her role as a
10:40:16 2 barrister and is seeking the best outcome for her client,
10:40:19 3 and that outcome is to plead guilty, well that's nothing to
10:40:23 4 do with being a police agent.
5
10:40:28 6 Are you serious about that? What I'm asking you to do is
10:40:31 7 look at those points one after the other?---Yes.
8
10:40:34 9 Right, one after the other. And you say, look, you want to
10:40:36 10 highlight point 8 and say that seems okay to you.
10:40:39 11 Seriously, look at them all and what do you say about
10:40:44 12 them?---I just answered your question. I'm not sure, are
10:40:47 13 you asking a general question again?
14
10:40:49 15 If you accept all the propositions that are above, right,
10:40:54 16 she's an active barrister, she's visiting clients, they
10:41:00 17 think they've got privilege, they believe they're speaking
10:41:01 18 to their representative, the very person then passes
10:41:03 19 information on to Victoria Police, right, so she's an agent
10:41:06 20 for Victoria Police. She continues to act for that client
10:41:08 21 and she convinces that client to plead guilty, right. So
10:41:11 22 you say no problem so far as that's concerned?---No
10:41:16 23 problems as in - sorry, I'm not understanding your
10:41:19 24 question. I thought we talked about point 8, which I've
10:41:22 25 explained my take on what someone else's notes are.
26
10:41:26 27 Yes?---I'm not sure I can add to that.
28
10:41:29 29 Are you deliberately being obtuse or - I mean, I don't
10:41:33 30 know, maybe I'm not putting it clearly to you.
31
10:41:37 32 COMMISSIONER: Mr Richards, what you're asked is not to
10:41:39 33 take 8 separately, but to look at 8 in the context of all
10:41:45 34 the other matters, and then say in light of all the other
10:41:49 35 matters for Nicola Gobbo to then do that, did you consider
10:41:55 36 that was a problem?---If that was acting as an agent,
10:41:59 37 Commissioner, that's the proposition put to me, but I don't
38 believe the notes specify that acting as an agent and, no,
10:42:02 39 I'm not trying to be difficult, I'm just saying that from
10:42:06 40 someone else's notes I'm making a comment that if the HS
10:42:10 41 were acting and tasking directly by Victoria Police to
10:42:13 42 convince a client to plead guilty, there would be
43 absolutely and issue with that, if that were the case.
44
10:42:17 45 MR WINNEKE: Perhaps we should have point one there, it's
10:42:20 46 not complete, Commissioner. Then we've got seven and
10:42:34 47 eight. Look, this is based - - - ?---Yes.

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- - - based on the fact that Ms Gobbo has provided the information to a very great extent which enables that person to be arrested, so she's provided the information on behalf of Victoria Police, police then are able to arrest the person. She then gives advice to them to plead guilty in circumstances where she's acting as an agent of Victoria Police. Now all of those points seem, certainly as far as Mr Black was concerned in June 2009, seem to suggest to him that there were problems. What I'm asking you is were those matters, matters which you were aware of, firstly?---To a specific case, and I'm trying to work with you on this, as in a specific case, are you talking about 2005?

Were you aware of any cases where those issues, all of those issues were present?---No, I've never been aware of any time that 3838 was tasked to convince a client to plead guilty, no, I'm not aware of that.

What was the concern about convictions being set aside? We go back to your SWOT analysis. See, what I'm trying to get at, Mr Richards, is the concerns that were expressed on 31 December 2008?---Yes.

Were concerns that had existed for some time, do you accept that?---I agree.

Including the concern about the potential for convictions to be at risk?---Agree.

There must have been a reason why there was the concern that convictions might be at risk, do you accept that?---Yes.

What was the reason?---My reason?

Yeah, what was the reason?---Again, I think from a blanket point of view the use, from my looking out/looking in type perception was that it is the public perception was a perception that would be well-founded that it is not the right thing to do, I suppose is the best way to put it.

So if there's a consideration of unsafe verdicts and possible appeals?---Yes.

And also current prosecutions with respect to Mokbel and

10:45:36 1 others, clearly that is as a consequence of the conduct of
10:45:41 2 Ms Gobbo in conjunction with members of the SDU, you accept
10:45:45 3 that?---No, I think that's a broad ranging statement that
10:45:52 4 my point of view is not true.
5

10:45:54 6 From your point of view what do you say gives rise to the
10:45:58 7 possibility of unsafe verdicts?---I'm thinking about the
10:46:12 8 question. To be honest, it's the involvement of actually
10:46:17 9 those points that are currently on the screen, absolutely,
10:46:21 10 an active barrister, visiting clients. I agree with that
10:46:26 11 concept, that that would put convictions at risk.
12

10:46:30 13 Yes?---And therefore there would be an exploratory process
10:46:34 14 as to how that came about, which would involve risk of an
10:46:40 15 appeal or convictions being overturned, I absolutely agree
10:46:43 16 with that, yes.
17

10:46:44 18 That was the concern expressed by you to your
10:46:48 19 superiors?---Yeah, I expressed that before, yes.
20

10:46:52 21 I mean fundamentally effectively what's occurred is that
10:46:56 22 people who are being represented by Ms Gobbo did not get
10:47:00 23 independent legal advice, that's the real point, isn't
10:47:03 24 it?---No, that's not the real point, no.
25

10:47:07 26 What they got was not independent legal advice, they got
10:47:10 27 legal advice from an agent of Victoria Police. That's the
10:47:13 28 concern that you had, isn't it?---No, that's not the
10:47:17 29 concern.
30

10:47:17 31 You didn't have that concern?---No.
32

10:47:20 33 As a consequence of getting legal advice from a person who
10:47:24 34 was effectively a police officer, they didn't get a fair
10:47:27 35 trial, that's the concern, isn't it?---Firstly, it's a fair
10:47:34 36 stretch that one who acts as a human source is a member of
10:47:38 37 Victoria Police and, no, I don't agree with that.
38

10:47:41 39 Someone who is actually an agent of Victoria Police and is
10:47:45 40 acting or pretending to act as someone's legal advisor, you
10:47:48 41 think that's okay?---In respect to - I think you'd have to
10:47:52 42 give me an example because again it's a fairly broad
10:47:56 43 comment. I'm happy to answer, I just don't - if you've got
10:47:58 44 a specific question.
45

10:48:00 46 Yeah, well - Commissioner, I've got specific questions. I
10:48:05 47 can't do them in public because we've got issues of

10:48:10 1 suppression orders and so forth. But in any event perhaps
10:48:13 2 I'll move on.
3
10:48:14 4 COMMISSIONER: And come back to it when we're in private
10:48:17 5 session, yes.
6
10:48:18 7 MR WINNEKE: And come back to it. What the SDU was trying
10:48:25 8 to do here was to suggest to the management that if they go
10:48:36 9 down the path of utilising Ms Gobbo as a witness all of
10:48:42 10 this will get out, right?---That's fair, yes.
11
10:48:46 12 And effectively what you're saying is, "We don't want this
10:48:50 13 to get out. We want to keep a lid on this",
10:48:57 14 correct?---Keep a lid on it being not divulged, the
10:49:00 15 source's identity or methodology used, agree.
16
10:49:03 17 And, "We don't want the potential of our conduct, the SDU's
10:49:07 18 conduct, being exposed to the courts"?---By the word
10:49:13 19 conduct, I'm not sure what you're referring to the word
10:49:17 20 conduct. As I've said - - -
21
10:49:19 22 The to use of Ms Gobbo as a police agent whilst she was a
10:49:22 23 barrister?---As a role as a source, I agree.
24
10:49:28 25 Could I ask you this: one of the threats was the potential,
10:49:32 26 the consideration of unsafe verdicts and possible appeals.
10:49:36 27 Do I take it that the members of the SDU accepted that
10:49:39 28 there were people who were then in custody who had been
10:49:44 29 convicted and potentially were sitting in gaol as a result
10:49:48 30 of unfair trials, that's effectively what you were saying,
10:49:53 31 wasn't it?---No, are you going back to the SWOT analysis?
32
10:50:00 33 Yes, I am?---No, I don't accept that.
34
10:50:04 35 Why don't you, because it says, "OPI review, serving
10:50:07 36 barrister assisting police, consideration of unsafe
10:50:08 37 verdicts and possible appeals. Prosecution current Mokbel
10:50:12 38 and future?" Go back to p.138.
39
10:50:19 40 COMMISSIONER: We haven't got it up on the screen yet?---I
10:50:23 41 don't have that in front of me.
42
10:50:23 43 MR WINNEKE: I'm sorry about that.
44
10:50:26 45 COMMISSIONER: 138 of Mr Black's diary, is that right?
46
10:50:29 47 MR WINNEKE: Yes, Commissioner?---So we've part answered

10:50:32 1 your question. I wasn't aware of the people that were or
10:50:35 2 weren't incarcerated at that time.
3
10:50:38 4 No. But what you were aware of as a member of the SDU was
10:50:44 5 that there was a view held by the SDU, including you, that
10:50:48 6 there was at least the potential for there to be unsafe
10:50:52 7 verdicts and possible appeals?---Yes.
8
10:50:55 9 And "potential difficulties with current Mokbel
10:50:59 10 prosecutions and future prosecutions?"?---I think I must be
10:51:08 11 on the wrong page there.
12
10:51:09 13 138. If we go over the next page. Sorry. Under the
10:51:20 14 "threat" section?---Yes, I see that, yes.
15
10:51:24 16 So the SDU had that view, that there are these potentially
10:51:29 17 unsafe verdicts, possible appeals, there were people in
10:51:34 18 custody, do you accept that?---It doesn't - I'm sorry to
10:51:39 19 talk about custody, I'm looking at the OPI review, "serving
10:51:43 20 barrister assisting police", agree with that line. Yes, it
10:51:46 21 doesn't talk about people already in custody or
10:51:49 22 incarcerated or serving a sentence.
23
10:51:52 24 You may not recall now but you would have known at that
10:51:55 25 stage there were people who were in custody?---Yeah, I'm
10:52:00 26 not denying that. I just don't remember specifically.
27
10:52:03 28 The implication is if there are unsafe verdicts, given
10:52:07 29 we're talking about pretty serious offences, the likelihood
10:52:11 30 is there'd be people in custody?---As I say, I'm not
10:52:16 31 disagreeing with you at all but I just can't remember that.
32
10:52:21 33 Do you know whether there was any suggestion made by any
10:52:25 34 members of the SDU or whether you had any - I'll break that
10:52:30 35 down. Do you know whether there was any suggestion that
10:52:34 36 perhaps there ought be legal advice obtained as to whether
10:52:44 37 or not the Office of Public Prosecutions should be made
10:52:46 38 aware of these people who might have been convicted and the
10:52:52 39 verdicts might be unsafe? Do you know whether there was
10:52:56 40 any consideration of that?---Yes, I believe there was. I'm
10:52:59 41 not sure at what time frame but it might have come later,
10:53:03 42 but, yes, I am aware that that occurred.
43
10:53:06 44 Was it before this or after this or as a consequence of
10:53:10 45 this?---As I just said to you, I really can't help you with
10:53:15 46 the time frame. Yes, I know it happened but I'm not sure
10:53:19 47 exactly when in context of this particular SWOT analysis.

1
10:53:22 2 Right?---I would have thought it would have been around the
10:53:25 3 time considering the thought process.
4
10:53:27 5 From your recollection of these events do you get the
10:53:31 6 impression there were people within the SDU who were
10:53:34 7 concerned that there should be a disclosure made to
10:53:40 8 prosecuting authorities about this?---So from an SDU point
10:53:44 9 of view dealing with the investigators who are responsible
10:53:46 10 for the briefs of evidence, whether it be Petra or Purana
10:53:50 11 or whoever it was, absolutely from those particular units,
10:53:54 12 they should have been or could have been seeking a review
10:53:57 13 or advice, yes, in relation to presentation of that
10:54:00 14 evidence.
15
10:54:01 16 What did you do about it?---Myself?
17
10:54:05 18 Yes?---Nothing.
19
10:54:07 20 Do you know whether anyone in the SDU, did Mr White, for
10:54:12 21 example, suggest, as far as you know, there should be legal
10:54:15 22 advice obtained?---In relation to the SWOT analysis here in
10:54:21 23 front of us which is in relation to the statement being
10:54:23 24 taken - - -
25
10:54:24 26 No, no, just listen. I'm talking about the possibility
10:54:28 27 that there might be people convicted unfairly, right. What
10:54:31 28 I'm trying to get at is did anyone suggest that someone
10:54:36 29 should inform the OPP about this concern?---I'm not aware
10:54:43 30 of what the investigators - whether they did or did not.
31
10:54:47 32 Right. What about the SDU? I mean this is something that
10:54:52 33 the SDU has discussed amongst themselves and come to this
10:54:55 34 conclusion?---Yes.
35
10:54:56 36 What steps were put in place to ensure that people weren't
10:55:01 37 sitting in custody or weren't unfairly convicted, what
10:55:05 38 steps were put in place by you or the members of the
10:55:08 39 SDU?---Again, nothing from me. I did nothing. So in
10:55:15 40 relation to people in custody or the briefs of evidence or
10:55:19 41 any appeals, that's an investigator role, not an SDU role.
42
10:55:24 43 But you're a member of Victoria Police and you're in
10:55:27 44 possession of knowledge and you've got concerns?---Yes.
45
10:55:30 46 Do you say you have no obligation to do anything about
10:55:33 47 it?---No, I'm not saying that whatsoever.

1
10:55:36 2 So - - - ?---The SDU provided advice back to investigators.
10:55:39 3 I'm not sure exactly what the advice was or the
10:55:43 4 recommendations in relation to how that should play out
10:55:47 5 about how notifications of disclosure would work.
6
10:55:49 7 Ultimately, can I suggest one of the things that you were
10:55:53 8 concerned about is this information didn't get out, isn't
10:55:56 9 it?---About her role as a human source at Victoria Police?
10
10:56:00 11 Yes?---No, that didn't - that's what we were trying to
10:56:06 12 prevent, her identity being compromised.
13
10:56:09 14 All right. But why wouldn't you go to the OPP and say,
10:56:14 15 "Look, I as a member of Victoria Police, I've got concerns
10:56:18 16 about the possibility of unsafe convictions. I think you
10:56:21 17 should know this"?---So the whole point was to - from the
10:56:28 18 Unit's perspective it was pushed back to Mr Biggin after
10:56:32 19 the SWOT analysis was done to speak to I presume the
10:56:35 20 investigators and higher up in the hierarchy.
21
10:56:39 22 All right. Is it your expectation that if you had
10:56:42 23 expressed a conscientious view that there were people
10:56:46 24 potentially having been unfairly convicted, that
10:56:50 25 appropriate steps would be taken by senior members of
10:56:54 26 Victoria Police to get appropriate advice?---To get advice,
10:56:56 27 yes, I agree with that concept.
28
10:56:59 29 Did you ever take any steps to find out whether any
10:57:03 30 appropriate advice had been sought?---No, I haven't spoken
10:57:08 31 to anyone outside the SDU, no.
32
10:57:11 33 Do you know whether anyone within the SDU did that?---I
10:57:15 34 make an assumption that that happened, yes.
35
10:57:21 36 You make an assumption, what, that someone within the SDU
10:57:24 37 did try and find out what had happened?---Yes, followed
10:57:27 38 through the chain of command.
39
10:57:40 40 Did you take any steps to follow it up to ensure that
10:57:44 41 someone had done something about this at all?---That's the
10:57:50 42 whole reason for the SWOT analysis for the taking of the
10:57:53 43 statement, was not my responsibility. I suppose that's not
10:57:58 44 throwing out my responsibility, as we've already mentioned,
10:58:00 45 but no, it wasn't my role.
46
10:58:09 47 I just want to ask you, I sort of moved away from the

10:58:14 1 chronological analysis of your involvement a little bit,
10:58:17 2 but I just want to go back if I may and ask you a little
10:58:20 3 bit about your involvement?---Yes.
4
10:58:53 5 You came to the SDU as a [REDACTED], correct?---That's
10:59:02 6 correct.
7
10:59:08 8 In your role as a handler, and for the most part you were a
10:59:16 9 handler, is that right?---Yes.
10
10:59:18 11 You had your own human sources?---Yes.
12
10:59:20 13 I'm not going to ask who they are at this stage?---Yes.
14
10:59:23 15 There was a process that was set out for the dissemination
10:59:26 16 of information; is that right?---Yes.
17
10:59:31 18 Was that done purely through the preparation of information
10:59:36 19 reports?---That's fair.
20
10:59:42 21 When you were involved as a handler did you pass on
10:59:50 22 information verbally which hadn't been through an
10:59:53 23 information report sanitisation process?---Yes.
24
11:00:01 25 Did you pass that on directly to investigators in relation
11:00:05 26 to sources who you had?---So information could be numerous
11:00:09 27 things, whether the source is capable of doing the
11:00:12 28 appropriate tasking, whether the source has issues outside
11:00:17 29 that may impact tasking, whether it be - I'm throwing out
11:00:23 30 their family commitments or holidays or something else that
11:00:29 31 I informed the investigators that tasking could or couldn't
11:00:33 32 happen.
33
11:00:35 34 Did you operate in accordance with Standard Operating
11:00:39 35 Procedures?---Yes.
36
11:00:40 37 If you had intelligence which you received from a human
11:00:44 38 source did you pass that on to investigators verbally or
11:00:47 39 did you ensure that that was in an information report?---If
11:00:51 40 it was intelligence, actionable intelligence, absolutely it
11:00:57 41 would be in an information report.
42
11:01:00 43 As far as you were concerned actionable intelligence would
11:01:02 44 not go directly from a handler to an investigator; is that
11:01:07 45 right?---No, it would absolutely be followed up with the
11:01:10 46 appropriate documentation.
47

11:01:11 1 So you'd get on the phone and contact an investigator as
11:01:17 2 soon as you'd spoken to your source and pass that
11:01:22 3 information on, would you?---Depends whether or not it was
11:01:27 4 a live investigation, it depends whether or not the
11:01:30 5 intelligence was urgent or needed to be acted upon.
6
11:01:33 7 Yes?---It would depend on the circumstances.
8
11:01:36 9 And it would be done without going through the
11:01:38 10 controller?---At times, yes.
11
11:01:40 12 You see, in relation to Ms Gobbo we understand that for the
11:01:44 13 most part information was provided to investigators
11:01:51 14 directly. I think Mr O'Brien said that he received hot
11:01:54 15 debriefs almost invariably when it came to Ms Gobbo's
11:02:00 16 information. Is that consistent with your recollection of
11:02:06 17 the way in which the SDU operated?---For 3838?
18
11:02:09 19 Well, I'm talking about generally?---That's what I just
11:02:15 20 said, no, it depends on the circumstances. So if there was
11:02:18 21 an active investigation and there was something needed in
11:02:21 22 relation to covert methodology or trade craft, yes, there
11:02:27 23 might be a hot debrief to the investigators, absolutely
11:02:30 24 agree. If it wasn't an active investigation and it's just
11:02:33 25 pieces of intelligence that they have an active
11:02:36 26 investigation currently attributable to it, that would just
11:02:37 27 be documented in due course.
28
11:02:39 29 You understand that the Chief Commissioner's standing order
11:02:43 30 with respect to human sources and the Standard Operating
11:02:47 31 Procedures don't make any reference to verbal
11:02:49 32 disseminations of information. Now, was that your
11:02:53 33 understanding at the time?---I can't comment on that. If
11:02:58 34 you're reading that out, I can't disagree with you.
35
11:03:05 36 Was there a subject or discussion between you and other
11:03:07 37 members of the SDU whether or not it was appropriate for
11:03:10 38 handlers to simply pass on information without it being
11:03:14 39 vetted and gone through the various processes which are set
11:03:17 40 out in the Standard Operating Procedures and the Chief
11:03:23 41 Commissioner's standing order?---So we had the CCIs and
11:03:25 42 the SOPs, which is fine. To my thinking there is no
11:03:32 43 problems whatsoever with disseminating information direct
11:03:35 44 to investigators.
45
11:03:36 46 So as to whether or not that was in accordance with
11:03:40 47 Standard Operating Procedures or Chief Commissioner's

11:03:43 1 orders you don't know and you didn't know then?---No, I'm
11:03:46 2 not sure that it was in there but from a common sense point
11:03:49 3 of view it would be to pass on information that was,
11:03:53 4 whether it be urgent, again trade craft, whether it be
11:03:57 5 something the investigators need to know in the course of
11:04:00 6 their investigation.

7
11:04:03 8 One of the issues, I suppose, is that if that does occur it
11:04:06 9 then becomes problematic to work out exactly what
11:04:10 10 information was passed on and when it was passed on, to
11:04:14 11 whom it was passed on. Do you accept that?---Yes, I do.

12
11:04:22 13 If information is passed on strictly in accordance with the
11:04:24 14 Standard Operating Procedures and the Chief Commissioner's
11:04:29 15 orders, one assumes that there would be a very clear trail
11:04:33 16 of information, do you accept that?---I accept what you're
11:04:39 17 saying. Also, if CCIs remain silent on the fact of a
11:04:47 18 verbal update, I think that implies that again common sense
11:04:51 19 prevails.

20
11:04:53 21 In any event, that wasn't something that was instilled in
11:04:56 22 you at the SDU, that there should be a formal dissemination
11:05:01 23 process?---Absolutely there was a formal dissemination
11:05:04 24 process.

25
11:05:05 26 When I say formal, I mean in terms of information reports
11:05:11 27 disseminated in accordance with the Standard Operating
11:05:14 28 Procedures and the Chief Commissioner's
11:05:17 29 instructions?---Yes, which occurred.

30
11:05:18 31 It did occur but what you seem to be saying is that there
11:05:22 32 was this informal process of picking up a telephone and
11:05:28 33 passing on information?---I would agree with that, yes.

34
11:05:35 35 In terms of oversight, do you accept that it makes it more
11:05:39 36 difficult to determine exactly who's overseeing the conduct
11:05:46 37 of the SDU if you've got verbal disseminations and you
11:05:49 38 haven't got written IRs which are then going to the HSMU to
11:05:56 39 be considered?---So what is in a verbal hot debrief is also
11:06:05 40 contained within both the informer contact report and the
11:06:08 41 IR.

42
11:06:08 43 Assuming it's recorded accurately?---Yes.

44
11:06:13 45 See, you note that the oversight of the management of
11:06:15 46 Ms Gobbo was the responsibility of the HSMU and the
11:06:19 47 appropriate local source registry and the central source

11:06:23 1 registry?---Yes.
2
11:06:27 3 Do you say that the way in which they oversight it was to
11:06:32 4 examine the ICRs which were provided to them?---Yes, I
11:06:37 5 would say that's fair.
6
11:06:40 7 In your experience, certainly as we understand it, there
11:06:47 8 was often a significant delay in the provision of ICRs to
11:06:51 9 the HSMU, do you accept that?---Yes, I do.
10
11:06:55 11 If there is a significant delay in the provision of those
11:06:57 12 ICRs how then do you say that there's appropriate
11:07:02 13 oversight?---That's a really good question and I believe
11:07:07 14 that the members who were talking about 3838 did as best as
11:07:13 15 humanly possible to ensure that the controller's briefed,
11:07:17 16 who would then brief up management without the specific
11:07:23 17 documents being in place.
18
11:07:24 19 It's pretty difficult for there to be appropriate oversight
11:07:29 20 of the SDU, certainly in its handling of Ms Gobbo, do you
11:07:32 21 accept that?---No, not at all.
22
11:07:34 23 If they're not getting the ICRs though how do they
11:07:38 24 know?---I think you'd have to speak - as I just said in the
11:07:42 25 previous question, it's about the verbal dissemination and
11:07:44 26 the updates that go through from a controller's point of
11:07:48 27 view to the Inspector of the SDU, through to the
11:07:50 28 Superintendent and also through the Human Source Management
11:07:55 29 Unit from the respective LSRs.
30
11:07:59 31 Do you say that if, for example, there's a long
11:08:01 32 communication between Ms Gobbo and a handler which is set
11:08:05 33 out over a considerable amount of, occurs over a
11:08:12 34 significant amount of time and then a note there follows
11:08:14 35 which says, for example, "O'Brien updated", do you think
11:08:17 36 that's a sufficient way of recording the flow of
11:08:21 37 information from the SDU to the investigator?---Yes.
38
11:08:38 39 You say in paragraph 21 of your statement that the
11:08:41 40 oversight body and the members of the chain of command had
11:08:46 41 full access, documentation and input into the authorisation
11:08:50 42 and continued authorisation of Ms Gobbo as a human source.
11:08:55 43 Do you maintain that that's the case?---Yes, I do.
44
11:09:00 45 Do you accept that the HSMU was reliant upon the provision
11:09:05 46 by the SDU of up-to-date and comprehensive documentation
11:09:13 47 about what was going on with Ms Gobbo?---I believe that

11:09:18 1 they were kept up-to-date verbally. I agree with the
11:09:21 2 proposition that some of the ICRs weren't there in a timely
11:09:25 3 fashion.
4
11:09:26 5 So when you were the controller of Ms Gobbo who did you
11:09:30 6 communicate with and update about what you were
11:09:37 7 doing?---The relevant Inspector at the time, so I think,
11:09:40 8 depending on what year it was, whether it be Mr McWhirter,
11:09:49 9 or I'm not sure of which Inspector at the time, but just
11:09:52 10 the normal chain of command, yes.
11
11:09:54 12 If you, for example, had received information from a
11:09:59 13 handler about Ms Gobbo, what did you do to ensure that
11:10:04 14 there was appropriate oversight of what was going on? Who
11:10:14 15 did you speak to?---So I wouldn't speak to - whether it be
11:10:16 16 Mr Glow or Mr McWhirter or Mr Hardy at the time or John
11:10:21 17 O'Connor, I would pass on relevant information to those
11:10:24 18 particular people.
19
11:10:32 20 Insofar as risk assessment is concerned, do you say that
11:10:38 21 you carried out risk assessment on a regular basis in
11:10:42 22 relation to Ms Gobbo when you were a controller?---Yes.
11:10:47 23 Yes, I think that's normal for all the sources.
24
11:10:54 25 What did the risk assessment process as far as Ms Gobbo
11:10:57 26 entail when you were the controller?---I think from - I'm
11:11:04 27 not sure how many times I was controller, I think only two
11:11:08 28 or three over the space of a couple of years, it's me
11:11:11 29 understanding what's in the source management log and
11:11:13 30 understanding what's in the risk assessment.
31
11:11:23 32 So you were the controller, it seems, from a period of
11:11:27 33 about 2 April through to 22 April?---Yes.
34
11:11:30 35 And there'd been a formal risk assessment recorded, when I
11:11:35 36 say formal, there'd been a record of a risk assessment
11:11:40 37 being conducted previously on 5 March, according to the
11:11:43 38 source management log. The next one was on 28 May 2007.
11:11:50 39 Were you, as the controller during the period that you were
11:11:58 40 - well during the period - - - ?---I understand.
41
11:12:00 42 Would you be required to carry out a risk assessment or
11:12:02 43 not?---No.
44
11:12:03 45 What was the expectation about the carriage of a risk
11:12:08 46 assessment?---It was the management of the source
11:12:14 47 management log. So from my point of view and from the

11:12:17 1 officer's point of view it was about a continual risk
11:12:21 2 assessment and updating the logs, yes.
3
11:12:26 4 I think you understand the importance of risk assessments I
11:12:32 5 take it?---Yes.
6
11:12:37 7 The purpose of a risk assessment - well it's one of the
11:12:41 8 four pillars of effective source management, are you aware
11:12:45 9 of that?---That's fair.
10
11:12:49 11 At paragraph 27 of your statement it appears that you say
11:12:54 12 that ongoing risk assessment of Ms Gobbo as a human source
11:13:02 13 was conducted; is that right?---Yes.
14
11:13:08 15 There was a environment permitted that challenged her use
11:13:11 16 as a human source?---Yes.
17
11:13:16 18 It was discussed, as we've already discussed with you,
11:13:19 19 during the course of meetings?---Yes.
20
11:13:21 21 Subsequently, as we say, down the track there's a concern
11:13:26 22 expressed by members of the SDU about the potential
11:13:30 23 consequences of the use of Ms Gobbo being, well, the
11:13:34 24 perception, you say, but I would suggest the actuality of
11:13:40 25 unfair convictions, those matters were considered during
11:13:45 26 the course of discussions as I understand it?---Yes.
27
11:13:50 28 Why were those matters never included in risk assessments,
11:13:55 29 changed risk assessments?---They were updated in the source
11:14:00 30 management log which I've just stated is part of the risk
11:14:04 31 assessment process.
32
11:14:04 33 Right. But we don't see in any risk assessment the
11:14:09 34 possibility of - certainly during the period from 2005
11:14:14 35 through to December 2008?---Yes.
36
11:14:22 37 We don't see anywhere in the risk analyses the possibility
11:14:27 38 of unsafe convictions, the possibility of exposure of
11:14:30 39 Ms Gobbo by the need to disclose her role either to the OPP
11:14:36 40 or to the court or the defence barristers. Why isn't that
11:14:38 41 put in the ongoing risk assessment?---The ongoing risk
11:14:41 42 assessment is the source management log.
43
11:14:43 44 Yes. What's the answer to my question? Why isn't the SML
11:14:50 45 updated to include those concerns?---I believe it would be.
46
11:14:54 47 Well, I can tell you that it isn't. Is that something that

11:14:58 1 concerns you?---I'm surprised that there's no reference to
11:15:04 2 any risk in the SML.

3
11:15:05 4 I'm talking about risk of unsafe convictions and the
11:15:09 5 possibility of exposure of Ms Gobbo as a human source
11:15:15 6 because of the need to disclose her role?---I would be
11:15:22 7 surprised by that, that there's no reference to referring
11:15:24 8 to an ICR or there's no reference to a management entry in
11:15:28 9 relation to that. I would be surprised by that, yes.

10
11:15:31 11 You would be surprised, is that right?

11:15:37 12
11:15:38 13 COMMISSIONER: That was his answer, yes?---As I said - - -

14
11:15:41 15 MR WINNEKE: Because those matters had been discussed by
11:15:43 16 members of the SDU at various meetings that you talk about
11:15:46 17 in that robust environment and yet they don't find their
11:15:51 18 way into the SML, do you agree with that?---Yes.

19
11:15:53 20 And that's surprising to you, isn't it?---Yes.

21
11:16:05 22 Commissioner, I note the time.

23
11:16:07 24 COMMISSIONER: Yes all right then. We'll have the
11:16:09 25 mid-morning break.

26
27 (Short adjournment.)

28
29
11:43:10 30 COMMISSIONER: Yes Mr Winneke.

11:43:12 31
11:43:12 32 MR WINNEKE: Thanks Commissioner. Mr Richards, I was
11:43:16 33 asking you about a couple of matters that you set out in
11:43:20 34 your statement, in particular around paragraph 29. You
11:43:25 35 talked about, "The environment of the SDU enabled robust
11:43:34 36 discussions without fear of retribution and ensured the
11:43:41 37 honesty of the opinions could be retained. Whilst
11:43:46 38 hypotheticals were often used to assess risk, it was
11:43:49 39 paramount a logical and considered conclusion be reached".
11:43:54 40 Can you just explain that for me?---Yes. So as led from
11:44:05 41 the leadership point of view within the Source Development
11:44:09 42 Unit, it was appropriate that everyone had their say. We
11:44:13 43 had lots of people from different backgrounds, different
11:44:17 44 experiences, different knowledge bases that would provide a
11:44:20 45 difference of opinion in respect to any of the source
11:44:25 46 management issues of any of the sources. It's important,
11:44:29 47 especially from my point of view, to have as many of the

11:44:33 1 facts as appropriate to make an informed decision, if -
11:44:38 2 from that point of view, if you are either shouted down or
11:44:42 3 not listened to in respect of your opinion, obviously that
11:44:46 4 grows over time so therefore you don't give your opinion or
11:44:49 5 you don't believe you'll be listened to so therefore it
11:44:53 6 could stymie, the truth, it could stymie innovation, it
7 could stymie opportunities or understanding of how to deal
11:45:01 8 with certain issues as they progress.
11:45:03 9
11:45:04 10 Effectively what you're saying is it was an environment
11:45:07 11 where you freely express your views and you weren't
11:45:10 12 shutdown, prevented from doing so?---Yes, that's correct.
11:45:13 13
11:45:13 14 And, "The fact that Ms Gobbo was a lawyer insured that we
11:45:17 15 challenged each other's awareness of her obligations to her
11:45:23 16 clients, what was deemed to be legal professional privilege
11:45:27 17 and what was seen as a conflict of interest. What was seen
11:45:31 18 as the greater good for the community and victims of
11:45:35 19 crime". Can you tell me about this sentence? There was
11:45:48 20 consideration of her obligations to her clients in the
11:45:50 21 discussions that you had, these robust discussions,
11:45:54 22 correct?---Yes, that's right.
11:45:54 23
11:45:56 24 There was consideration as to legal professional privilege
11:46:00 25 in the discussions?---Yes.
11:46:02 26
11:46:02 27 And there was consideration to conflict of interest?---Yes.
11:46:07 28
11:46:07 29 Is that right?---Yes.
11:46:10 30
11:46:10 31 Were those questions weighed against other matters such as
11:46:15 32 the greater good for the community and victims of
11:46:21 33 crime?---So I wouldn't say they're weighed against them,
11:46:24 34 absolutely they were spoken about. It's an open free
11:46:28 35 discussion about all issues.
11:46:29 36
11:46:29 37 Is what you're saying there, "Look we were aware of issues
11:46:33 38 of conflict of interest, we were aware that in effect she
11:46:39 39 had a foot in both camps on one view, and those were
11:46:50 40 matters that we talked about during the course of
11:46:54 41 meetings"?---Yes.
11:46:54 42
11:46:57 43 "Nonetheless we weighed those issues up with the greater
11:47:04 44 good for the community and the victims of crime." So what
11:47:08 45 you seem to be saying in that sentence is, "We've done a
11:47:11 46 comparative analysis and as far as we were concerned, even
11:47:14 47 though we understood that there were problems with respect

11:47:16 1 to conflict of interest, potentially LPP, there was a
11:47:21 2 greater good for the community and for the victims of crime
11:47:25 3 which we felt outweighed those issues of conflict of
11:47:30 4 interest and LPP"?---No, that's not what I meant when I
11:47:37 5 wrote this, no. It's not a scale, as I put in there, it's
11:47:42 6 just a discussion, so these are the points that we
11:47:45 7 consider. So I agree with you absolutely, we discussed
11:47:48 8 what was community benefit, victims of crime benefit,
11:47:53 9 absolutely agree with you on that.

11:47:54 10
11:47:55 11 But it just does seem, when you're comparing when you say
11:47:58 12 the greater good for the community, greater than what?
11:48:02 13 What are the issues that you are saying that the community
11:48:06 14 and victims of crime, in effect trump - is that what you're
11:48:13 15 saying?---No, I'm not talking about a scale or a weighting
11:48:17 16 or anything else. I'm talking about the perception of the
11:48:19 17 community, the safety of the community, there's people
11:48:22 18 being murdered in open, in public, what's the public's
11:48:27 19 perception of safety mean to the organisation, where does
11:48:30 20 that fall.

11:48:32 21
11:48:33 22 And you go on to say, "The issue of perception was a
11:48:37 23 constant amongst discussions, in that the public or those
11:48:41 24 with no understanding of how Ms Gobbo was being tasked or
11:48:42 25 how information was passed on or acted upon could be a
11:48:46 26 negative if her identity was compromised. Whilst she was a
11:48:50 27 registered human source we were confident her identity
11:48:53 28 would not be exposed". Could you expand on that for
11:49:00 29 us?---I think that's what I've been talking to you about
11:49:03 30 over the last day or so in relation to my perceptions that
11:49:08 31 if she were compromised the public perception would be
11:49:11 32 negative due to the lack of knowledge the public would have
11:49:17 33 in relation to the covert methodology and the trade craft
11:49:22 34 employed by the SDU in relation to her acting as a human
11:49:24 35 source.

11:49:24 36
11:49:25 37 What you do say is, "Whilst she's an HRS we're confident
11:49:31 38 her identity would not be exposed"?---Yes.

11:49:33 39
11:49:33 40 As far as you were concerned, if she's a human source,
11:49:37 41 putting aside any other obligation that she might have,
11:49:42 42 conflict of interest, LPP, "If she is within our control,
11:49:48 43 that is as a human source, we can continue to ensure that
11:49:53 44 her identity will not be exposed"?---Yes.

11:49:56 45
11:49:57 46 Right? "But if she becomes a witness then it's out of our
11:50:01 47 control and she may well be exposed"?---Yes.

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11:50:38 10
11:50:54 11
11:50:54 12
11:50:58 13
11:51:02 14
11:51:06 15
11:51:11 16
11:51:12 17
11:51:12 18
11:51:17 19
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11:51:27 21
11:51:32 22
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11:51:42 25
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11:52:01 30
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11:52:57 47

And this is despite the fact that there is genuine concern that there may well have been at least the potential for convictions to have been secured as a result of unfair conduct?---That's a fair comment.

So is that where the greater good of the community comes in?---As I say, it's absolutely a discussion point. It's not a scale of what's fair or what's worse, it's a talking point for what it is and I think it's a really valid point.

You say that, "We challenged each other's awareness of her obligations to her clients". What do you mean by that when you say you challenged each other's awareness of her obligations to her clients because - - - ?---During the meeting - - -

Sorry, go on?---During meetings there would be as 3838 being in a client/barrister legal professional privilege conversation when information was obtained or has 3838 been tasked to obtain information from a client during a client/barrister ongoing court case meeting, that's the discussion in relation to that, to make sure that we within the SDU were all aware of how the tasking was performed and what actions were carried out.

So, for example, would you have discussed whether or not it was appropriate for her to be acting for Tony Mokbel at the same time as in effect providing everything that she could possibly tell the SDU about Tony Mokbel with a view to having him put behind bars, you would that be something that you would have challenged each other about?---Yes, it would have been.

What was the upshot of those discussions?---Obviously it's the, it shows the course of the registration of 3838 over that time.

I mean, none of you are lawyers, are you?---No.

Did any of you during the course of these discussions where you were challenging each other about your awareness of her obligations to her clients and professional privilege and conflict of interest, think that it might be a good idea to actually get a legal opinion about those issues?---Agree in hindsight absolutely.

11:52:57 1 In hindsight but did anyone at the time raise that as a
11:53:01 2 possibility?---I can't say yes or no to that, I'm sorry, I
11:53:07 3 can't.
11:53:08 4
11:53:09 5 But it would have been the obvious thing to do, wouldn't
11:53:13 6 it?---So I think we discussed a week ago about a document
11:53:19 7 from overseas, we talked about that. We knew that
11:53:23 8 management had been briefed on this. So did we as a unit
11:53:30 9 seek that advice? No, we didn't. I said in hindsight we
11:53:34 10 should have. It's also a matter for HSMU, it's a matter
11:53:38 11 for chain of command, it's a matter for a lot of people to
11:53:41 12 consider that that should have been done properly, yes.
11:53:44 13
11:53:44 14 I'm going to suggest that there was an awareness on the
11:53:48 15 part of at least some of the handlers, controllers, that it
11:53:54 16 wouldn't be possible, for example, for Ms Gobbo to
11:53:58 17 represent a person and inform against him, so inform
11:54:05 18 against the person and then represent that person in
11:54:07 19 relation to charges that result from that information,
11:54:12 20 right? There was that awareness within the SDU?---I think
11:54:19 21 I'm getting what you're saying.
11:54:21 22
11:54:21 23 Yes. Do you accept that even though you weren't lawyers it
11:54:24 24 was recognised within the SDU that she couldn't provide
11:54:29 25 information against a person and then represent him and
11:54:33 26 advise him if charges arose out of that very
11:54:37 27 information?---Yeah, as I said it's a very complex
11:54:44 28 proposition and again I'm not trying to be difficult. If
11:54:47 29 you can break it down for me I'm happy to answer the
11:54:49 30 question, sorry.
11:54:50 31
11:54:52 32 I'm not going to break it down any more than what I've
11:54:56 33 done. What I'm suggesting to you is that it was recognised
11:54:59 34 within the SDU she could not provide information which
11:55:01 35 enables, let's call him person X, to be arrested and then
11:55:06 36 represent person X for those very charges that arise. That
11:55:10 37 was recognised, I suggest to you?---Yeah, I - I can't, if
11:55:21 38 you can't break it down, I'm sorry, it might be a
11:55:26 39 communication breakdown but I'm struggling with what the
11:55:28 40 concept is, that 3838 would provide information on someone
11:55:32 41 who is arrested and then represent that person at a post
11:55:37 42 hearing, is that - - -
11:55:39 43
11:55:39 44 Advise him and then represent him?---In a purely legal
11:55:47 45 capacity?
11:55:48 46
11:55:48 47 Purport to advise and represent in circumstances where as

11:55:52 1 an agent of Victoria Police she provided the very
11:55:55 2 information that enabled Victoria Police to arrest and
11:55:58 3 charge him in the first place?---So I'm unaware - - -
11:56:03 4
11:56:04 5 In circumstances where that person doesn't know that she is
11:56:06 6 an agent of Victoria Police?---Yeah, I'm - I'm sorry, I
11:56:13 7 can't help you with the answer. I'm not sure this is a
11:56:17 8 hypothetical, you're talking about someone in particular,
11:56:20 9 I'm not sure I can answer your question.
11:56:22 10
11:56:22 11 It's well and truly not a hypothetical?---Then I'm unaware
11:56:28 12 of which particular case you're talking about.
11:56:31 13
11:56:31 14 We'll come back to that. Was it conveyed - look, was there
11:56:37 15 a discussion amongst the handlers that it was really a
11:56:42 16 matter for Ms Gobbo as to whether or not she was acting
11:56:46 17 ethically in acting for a client in circumstances similar
11:56:52 18 to that which I've just described?---Yes, that's fair.
11:56:55 19
11:56:56 20 Was it conveyed to you in meetings that Ms Gobbo had in
11:56:59 21 fact said that the ethics of what they were doing, that is
11:57:03 22 she and impliedly the SDU, et cetera, were fucked, the
11:57:09 23 ethics of it were out the window?---No.
11:57:12 24
11:57:13 25 Was that ever part of the discussion you had, these robust
11:57:17 26 discussions?---No, I never heard that.
11:57:20 27
11:57:20 28 Was it ever suggested to you at any of these discussions
11:57:25 29 that Ms Gobbo was concerned that she may be in fact an
11:57:27 30 aider and abettor of the person who she was providing
11:57:30 31 information against, was that ever discussed?---Not that I
11:57:34 32 can recall in those specific circumstances, no. I'm not
11:57:39 33 saying it didn't happen.
11:57:40 34
11:57:42 35 If you were aware that as far as she was concerned the
11:57:46 36 ethics of what she was doing was out the window, what would
11:57:49 37 you have done?---In a hypothetical sense?
11:57:54 38
11:57:54 39 Okay, in a hypothetical sense?---I would voice my opinion
11:57:58 40 at the appropriate time.
11:58:00 41
11:58:00 42 What would you have said?---Again, it's about a matter of
11:58:06 43 perception. If she has flagged that it's an ethical issue
11:58:10 44 for herself, that is something that needs to be considered.
11:58:14 45
11:58:19 46 When you say considered, considered and what done?---Should
11:58:24 47 be considered through an analytical approach through the

11:58:30 1 risk assessment.
11:58:32 2
11:58:32 3 Would that be included in the risk analysis and
11:58:36 4 documented?---I would think so, yes.
11:58:37 5
11:58:38 6 In those circumstances do you think it would be an
11:58:40 7 imperative to get legal advice?---About an ethical
11:58:45 8 situation? I'm not sure that that particular scenario
11:58:48 9 would warrant that. I agree with your premise that yes, we
11:58:52 10 absolutely should have got legal advice.
11:58:54 11
11:59:00 12 Were you ever made aware that Ms Gobbo had said that early
11:59:06 13 on in the process, that is early on in her dealings with
11:59:10 14 the SDU, she respected legal professional privilege but by
11:59:16 15 June of 2006 she was way past that now, was that ever
11:59:20 16 discussed with you?---No.
11:59:22 17
11:59:22 18 Was it ever said to you that she'd thrown ethics out, LPP
11:59:27 19 and ethics out the window?---No.
11:59:30 20
11:59:32 21 In around July of 2006?---No.
11:59:34 22
11:59:37 23 If she had have said that to other members of the SDU do
11:59:41 24 you think it would have been important to raise those
11:59:43 25 matters in discussions in the meetings that you had?---With
11:59:52 26 myself, probably not, no.
11:59:54 27
11:59:54 28 But if you'd have been told those things you certainly
11:59:58 29 would have told your superiors about it, would
12:00:02 30 you?---Absolutely. The discussion would have happened as
12:00:05 31 we talked about before, yes.
12:00:06 32
12:00:20 33 If there were concerns that convictions might be suspect
12:00:28 34 because of the conduct of Ms Gobbo, do you say that that's
12:00:36 35 a question that would need to be dealt with by the SDU or
12:00:45 36 the investigators?---From my point of view it would be the
12:00:50 37 investigators.
12:00:51 38
12:00:52 39 But do you accept that it would be necessary to tell the
12:00:56 40 investigators about your concerns?---That's fair, yes.
12:01:02 41
12:01:03 42 At no stage did you tell any investigators about any
12:01:06 43 concerns that you had with respect to problems about
12:01:10 44 convictions?---No.
12:01:12 45
12:01:23 46 At paragraph 33 of your statement - perhaps we say this, at
12:01:34 47 paragraph 32, you say, "The assessments guided the tasking

12:01:42 1 of Ms Gobbo in relation to ensuring that she was not being
12:01:45 2 tasked against people that she was representing in an
12:01:48 3 official legal capacity", right?---Yes.
12:01:53 4
12:01:53 5 What does that mean?---So from my knowledge, obviously once
12:01:59 6 I was at the SDU she wasn't tasked against clients that she
12:02:04 7 was representing in an official legal capacity.
12:02:08 8
12:02:08 9 Do you mean in an official legal capacity in an open way,
12:02:13 10 that is standing up in front of a court?---Yes.
12:02:18 11
12:02:18 12 Does that apply to providing legal advice behind the scenes
12:02:23 13 in a way which isn't obvious to the public?---Do you
12:02:31 14 include in a social setting?
12:02:34 15
12:02:34 16 Regardless. What I'm talking about is if Ms Gobbo is
12:02:38 17 providing legal advice to a particular person but not
12:02:41 18 appearing in court, does that accord with your definition
12:02:46 19 of representing in an official legal capacity?---No.
12:02:50 20
12:02:51 21 So if she provided advice in chambers, that's not
12:02:55 22 representing in an official legal capacity?---Yes, that
12:02:59 23 would.
12:03:00 24
12:03:00 25 It would be?---You're talking about officially representing
12:03:05 26 a person?
12:03:06 27
12:03:06 28 Yes?---Yes, that's what's included, yes.
12:03:09 29
12:03:12 30 So you wouldn't, you would say, "Well look, if she can't,
12:03:23 31 if she is representing or advising in whatever capacity,
12:03:26 32 whether it be appearing in court or in chambers or at a
12:03:31 33 café, but if she's providing legal advice, in those
12:03:36 34 circumstances we cannot task her to get information in
12:03:40 35 relation to that client"?---So I think from obviously my
12:03:46 36 statement and from what I'm saying that doesn't include
12:03:48 37 being in a café, unless that's an appointment where the two
12:03:52 38 people are talking together and it's being a, I'll try to
12:03:59 39 describe how to put it. If it's an official consulting
12:04:03 40 appointment where they're talking about a particular case
12:04:07 41 between client and legal professional, that would fall
12:04:10 42 within the gambit of official legal capacity. If it's a
12:04:14 43 conversation between two friends in a café, that doesn't
12:04:18 44 fall within that.
12:04:19 45
12:04:19 46 If someone comes to Ms Gobbo and is speaking to her in the
12:04:24 47 belief that he or she is speaking to a barrister or a legal

12:04:31 1 representative about matters which concern their case, does
12:04:33 2 it really matter whether they're in a café or in chambers
12:04:37 3 or outside the court?---From my personal opinion, yes it
12:04:40 4 would.
12:04:40 5
12:04:41 6 You're saying if they're in a café having those discussions
12:04:44 7 that's different?---I would say that's personal, yes.
12:04:47 8
12:04:48 9 In those circumstances it's okay for her to be tasked
12:04:51 10 against such a person?---You said whether it's okay to be
12:05:00 11 tasked against a person, that would have certain different
12:05:03 12 circumstances around it I would say.
12:05:05 13
12:05:06 14 Do you say in that paragraph in your statement, "Ensuring
12:05:14 15 that she was not being tasked against people that she was
12:05:17 16 representing in an official legal capacity". If, for
12:05:20 17 example, she's representing someone in a trial, would you
12:05:26 18 say it's not appropriate for her to be providing
12:05:29 19 information at that very time to Victoria Police about that
12:05:34 20 - - - ?---About the trial?
12:05:36 21
12:05:37 22 No. Okay, so she's purporting, she's acting for someone in
12:05:45 23 a trial and at the same time as she's acting for that
12:05:50 24 person in a trial, so on your analysis she's representing
12:05:54 25 that person in an official legal capacity, right?---Yes.
12:05:58 26
12:06:00 27 You say as far as you're concerned, it's - and the view of
12:06:05 28 the SDU was it's reasonable in those circumstances to
12:06:09 29 receive information from her about that person with respect
12:06:11 30 to other conduct that that individual is engaged in?---Yes,
12:06:18 31 that's fair.
12:06:18 32
12:06:19 33 And that was the view that was taken, was it?---My view,
12:06:23 34 absolutely.
12:06:24 35
12:06:25 36 And was that something that was discussed and you
12:06:30 37 challenged each other about?---Yes.
12:06:35 38
12:06:35 39 And were there different views about that?---I think, again
12:06:40 40 from my perspective going back to there, there would have
12:06:43 41 been challenging views, but that seems more cut and dry
12:06:50 42 opinion where there was probably a firmly held belief that
12:06:56 43 that was okay.
12:06:56 44
12:06:57 45 That was okay, yeah. Whether or not that's okay obviously
12:07:02 46 it may well be a matter for lawyers to determine, you
12:07:06 47 accept that?---Totally.

12:07:06 1
12:07:07 2 But at the time it wasn't considered reasonable to get an
12:07:12 3 opinion about that?---I agree with you in hindsight,
12:07:17 4 absolutely.
12:07:18 5
12:07:21 6 Paragraph 33, "The conclusion reached post risk assessment
12:07:24 7 of ongoing use, tactical deployment or witness deployment
12:07:28 8 was not a decision for the SDU as this decision-making
12:07:34 9 process could only be approved through the chain of
12:07:37 10 command" and that's a reference, is it, to her becoming a
12:07:42 11 witness, is that right?---And overall use as a human
12:07:46 12 source, that's right, yes.
12:07:47 13
12:07:47 14 And overall use as a human source, is that right?---Yes.
12:07:50 15
12:07:53 16 Are you satisfied that these discussions that you had
12:07:57 17 about, with respect to challenging each other about her
12:08:02 18 role, about her obligations to clients, conflicts and so
12:08:06 19 forth, you raised those issues amongst yourselves with
12:08:10 20 Mr White, Mr Black, Mr Green in your meetings, are you
12:08:14 21 satisfied that those concerns that were raised went up the
12:08:19 22 chain?---So conversations were held not just with Mr White
12:08:23 23 and Mr Black, they were also with Mr Biggin, the inspectors
12:08:29 24 at the time, everyone was involved in the conversation.
12:08:31 25
12:08:32 26 So you can say quite confidently that Mr Biggin, Mr Hardy,
12:08:38 27 do you accept that those discussions where you're
12:08:41 28 challenging each other about these issues would have been
12:08:44 29 had in front of Mr Hardy?---Yeah, Mr Glow, Mr McWhirter,
12:08:48 30 Mr O'Connor, absolutely.
12:08:50 31
12:08:51 32 All of these issues were raised, you believe, with these
12:08:55 33 officers in charge of your unit?---Yes, and I would make an
12:09:01 34 assumption that the Human Source Management Unit were also
12:09:06 35 part of the conversation.
12:09:06 36
12:09:06 37 When you say you make an assumption, what I'm asking you is
12:09:11 38 for evidence about and your knowledge insofar as the direct
12:09:14 39 superiors, Biggin and the people between the SDU and him,
12:09:19 40 Glow, McWhirter, Hardy?---Yes.
12:09:21 41
12:09:23 42 You say that they were fully appraised of these debates and
12:09:28 43 concerns within the SDU?---Yes.
12:09:30 44
12:09:32 45 Mr O'Connor I think arrived, did he not, on 3 May 2010, is
12:09:40 46 that your understanding or not?---I have no idea of the
12:09:44 47 date but I'm - yeah, that would be right.

12:09:47 1
12:09:47 2 And at that stage you were a [REDACTED] at the SDU, is
12:09:52 3 that correct?---Yes, that's correct.
12:09:53 4
12:10:02 5 You're aware that there had been civil litigation or at
12:10:08 6 least issues in 2010, Ms Gobbo brought proceedings against
12:10:13 7 Victoria Police, were you made aware of that?---Not the
12:10:15 8 details, no.
12:10:16 9
12:10:35 10 Perhaps I'll come back to that. You say that
12:10:47 11 Superintendent Porter at the time of the SDU handling
12:10:51 12 Ms Gobbo as a human source was responsible as the CSR and
12:10:55 13 as such had full authority to ensure she remained as a
12:10:59 14 human source and what tasking was approved and when to
12:11:02 15 deactivate or ask for further information to guide his
12:11:06 16 decisions, right?---Yes.
12:11:08 17
12:11:09 18 On what basis do you say that he was fully appraised of the
12:11:14 19 discussions that you were having amongst yourselves about
12:11:17 20 whether or not it was appropriate or not to task
12:11:21 21 Ms Gobbo?---As I put in my statement, he had access to all
12:11:26 22 the information. Again I make the assumption he was
12:11:31 23 briefed by our Inspector in relation to the discussions
12:11:34 24 that had taken place so he would have been appraised of all
12:11:37 25 the information available.
12:11:38 26
12:11:39 27 Do you say that you at any stage spoke to Superintendent
12:11:42 28 Porter about any concerns that you had?---No.
12:11:46 29
12:12:00 30 We accept that you say there was division within the SDU,
12:12:06 31 correct?---Yes.
12:12:07 32
12:12:07 33 At the very least you were concerned about the use of
12:12:10 34 Ms Gobbo because of a public perception, that's
12:12:16 35 correct?---Yes.
12:12:16 36
12:12:16 37 You were concerned about at least the potential for there
12:12:20 38 to be unsafe convictions, that's a concern that you
12:12:27 39 had?---I don't know whether I used those words. In
12:12:32 40 hindsight absolutely, yes.
12:12:34 41
12:12:35 42 Certainly in 2008 you were of that view, in December of
12:12:38 43 2008?---Yes.
12:12:41 44
12:12:42 45 And you agreed with the proposition those views didn't just
12:12:44 46 arrive in December 2008?---Correct.
12:12:46 47

12:12:47 1 Therefore you would have had those concerns before
12:12:49 2 then?---Yes, that makes sense.
12:12:50 3
12:12:51 4 Right. Did you ever consider it appropriate to speak
12:12:55 5 directly to Superintendent Porter and express your concerns
12:12:59 6 about those three matters?---No.
12:13:01 7
12:13:02 8 Could you have done so?---Yes.
12:13:07 9
12:13:08 10 Is there a reason why you didn't?---We had a system or a
12:13:13 11 process set in place where we have the Central Source
12:13:17 12 Registrar, the Local Source Registrar. We have an
12:13:20 13 officer-in-charge, we have a chain of command there where
12:13:24 14 we trust in the chain of command that the information gets
12:13:28 15 passed through.
12:13:29 16
12:13:34 17 Were there other people who agreed with you that there were
12:13:38 18 concerns about using Ms Gobbo and the possibility of unsafe
12:13:42 19 convictions, whether other people within the SDU shared
12:13:50 20 your views, Mr Richards?---More than likely yes, putting a
12:13:57 21 finger on who it was I really can't say, but yes.
12:14:02 22
12:14:02 23 Were there people who wholly disagreed with your views?---I
12:14:12 24 would say that the general consensus was that the view was
12:14:17 25 it was appropriate in the circumstances to do what was
12:14:23 26 being done.
12:14:25 27
12:14:27 28 So the general consensus was that it was appropriate to
12:14:30 29 continue using Ms Gobbo albeit that you had concerns, but
12:14:35 30 there was at least a public perception problem and at least
12:14:39 31 there was a possibility of unsafe convictions?---So I know
12:14:44 32 you're putting in the part about the unsafe convictions. I
12:14:47 33 see that as a separate thing. As I've continued to say
12:14:50 34 that my belief was around perception. Apart from that I
12:14:56 35 find your statement as fair, yes.
12:14:57 36
12:14:59 37 Do you accept that ultimately it's a matter for a court to
12:15:05 38 consider whether or not a conviction is unsafe or
12:15:08 39 not?---Totally.
12:15:09 40
12:15:09 41 And if a person who has been convicted doesn't know about
12:15:13 42 the issues which give rise to your concern, it will never
12:15:18 43 get before a court, do you accept that?---Yes, I accept
12:15:23 44 that.
12:15:23 45
12:15:24 46 And until those views are made known, then there's at least
12:15:30 47 the potential for people to be sitting in cells when

12:15:36 1 they've been wrongly convicted, do you accept that?---Yes,
12:15:39 2 I accept that.
12:15:40 3
12:15:40 4 Do you accept that it would have been entirely appropriate
12:15:42 5 for you to make every endeavour to ensure that that did not
12:15:49 6 occur?---I don't accept that, no. I don't take on the
12:15:52 7 whole responsibility of Victoria Police to do that, no.
12:15:55 8
12:15:55 9 But you accept that you have a responsibility as a sworn
12:15:59 10 member of Victoria Police and an ethical person to ensure
12:16:04 11 that a situation which is potentially an improper
12:16:10 12 imprisonment should not remain?---I'm not sure about the
12:16:16 13 comments around improper imprisonment or anything else. I
12:16:21 14 probably described what the process is about putting
12:16:24 15 forward my thought process and my opinion, which then goes
12:16:27 16 through a process to command to make decisions well above
12:16:31 17 myself.
12:16:31 18
12:16:33 19 Who do you say is responsible? Who can we say ultimately
12:16:38 20 is responsible for bringing it to the attention of the
12:16:43 21 appropriate authorities?---As in the chain of command at
12:16:49 22 that time, as per my statement it was Mr Porter at the CSR
12:16:58 23 level in relation to the activation or deactivation of
12:17:03 24 tasking of 3838.
12:17:03 25
12:17:04 26 You say it's Mr Porter whose obligation it was?---At that
12:17:08 27 time.
12:17:08 28
12:17:09 29 Are you confident that Mr Porter was aware of your
12:17:12 30 concern?---I'm not sure what Mr Porter thought.
12:17:17 31
12:17:22 32 If these concerns didn't get reported, who do you say is
12:17:28 33 responsible for that?---Mr Porter didn't know about what I
12:17:36 34 thought as a [REDACTED]?
12:17:37 35
12:17:37 36 Yes. If he didn't know about your concerns who would you
12:17:41 37 say is responsible?---Me.
12:17:43 38
12:17:56 39 In March of 2007 I think you were a controller - sorry, a
12:18:06 40 handler of a number of informers or human sources but you
12:18:17 41 became a controller of Ms Gobbo in April of 2007, is that
12:18:24 42 right?---That would be right.
12:18:26 43
12:18:27 44 Just before we get to there, I'd like to ask you about a
12:18:33 45 particular entry in a diary of Mr O'Brien on 1 March of
12:18:42 46 2007. VPL.0100.0073.0002 at p.72, 0072?---Sorry, sir, what
12:19:04 47 date was that?

12:19:05 1
12:19:05 2 1 March 2007. Do you have your diary for that
12:19:41 3 day?---Thursday 1 March?
12:19:43 4
12:19:44 5 Yes, 2007?---I do.
12:19:48 6
12:19:48 7 And did you have a meeting with Mr Anderson, Mr White,
12:19:56 8 yourself and some other people in which you discussed
12:20:02 9 Ms Gobbo?---We may have, I haven't documented that in my
12:20:09 10 diary.
12:20:09 11
12:20:15 12 If there was a meeting at which you were attending where
12:20:19 13 she was discussed, albeit you were neither her controller
12:20:22 14 or her handler, you haven't noted it in your
12:20:27 15 diary?---Correct.
12:20:28 16
12:20:29 17 What about 5 March 2007? Do you have a meeting with
12:20:36 18 Mr White and Mr Fox and Mr Anderson?---I was present at an
12:20:49 19 office meeting at 12:00 hours.
12:20:52 20
12:20:52 21 And a number of things were discussed at that time,
12:20:56 22 including I think one of your informers and also Ms Gobbo,
12:21:06 23 is that right?---I don't have notes of - I have got a note
12:21:11 24 of having an office meeting from 12:00 to 14:15.
12:21:17 25
12:21:17 26 What about the following day, did you have meetings with
12:21:24 27 other members of the SDU or the DSU at that stage?---Yes.
12:21:32 28 I'd pretty much say every day we did, yes.
12:21:35 29
12:21:35 30 Was there a discussion about Ms Gobbo in relation to Milad
12:21:41 31 Mokbel?---I'm not sure about the topic of conversation.
12:21:44 32 It's not in my notes.
12:21:46 33
12:21:47 34 All right. And there was apparently a discussion which
12:21:52 35 anticipated the claiming of public interest immunity if a
12:21:57 36 diary was ever called upon and that's a meeting with
12:22:02 37 Mr O'Brien. In his diary there's a reference to a meeting
12:22:09 38 with you, amongst others. Is that right, do you recall
12:22:15 39 having a meeting with - - - ?---The following day on
12:22:18 40 Tuesday the 6th?
12:22:20 41
12:22:20 42 Yes?---Yes, at 16:35 hours.
12:22:24 43
12:22:24 44 Yes. What have you got in your diary there?---That I met
12:22:30 45 with Mr O'Brien, Flynn and others.
12:22:33 46
12:22:33 47 Yes?---That wasn't specifically about 3838.

12:22:41 1
12:22:41 2 It was about another person, was it?---Yes.
12:22:44 3
12:22:44 4 And the interaction of that person with 3838, with
12:22:50 5 Ms Gobbo?---No, I haven't got 3838 in that conversation.
12:23:00 6
12:23:00 7 But that would be, you would have been there present not as
12:23:06 8 either a controller or handler with respect to Ms Gobbo but
12:23:09 9 with respect to someone else, is that right?---That would
12:23:12 10 be fair.
12:23:12 11
12:23:14 12 I might have to deal with that in a different sort of
12:23:17 13 environment. You were the controller of Ms Gobbo from 2
12:23:43 14 April through to 27 April?---Yes.
12:23:45 15
12:23:47 16 During the course of that period in which you were a
12:23:50 17 controller you were speaking to, I think, Mr Anderson who
12:23:57 18 was the handler, is that right?---That would be correct.
12:24:00 19
12:24:01 20 And the discussions that you were having included
12:24:07 21 information about Mr Karam, who is trying to bring in a
12:24:15 22 container, is that right?---That would be right.
12:24:18 23
12:24:21 24 And Ms Gobbo was providing that information?---Yes.
12:24:27 25
12:24:27 26 And there's a note I think in the SML to the effect that,
12:24:32 27 "Karam is still trying to bring in a container, utilising
12:24:36 28 RS as a conduit", is that right?---I'm not sure where
12:24:40 29 you're reading from, sorry.
12:24:41 30
12:24:42 31 Perhaps we could go - - - ?---I don't disagree with it, I
12:24:45 32 just - - -
12:24:45 33
12:24:45 34 The SML for 2 April 2007?---Yes, I have that in front of
12:25:16 35 me.
12:25:16 36
12:25:17 37 Do you see that information?---Yes, the entry, yes,
12:25:22 38 absolutely.
12:25:23 39
12:25:24 40 "Tuesday evening Karam will text Ms Gobbo to text Horthy
12:25:29 41 Mokbel to set up a meeting." Do you see that?---Yes, I do.
12:25:37 42
12:25:38 43 I take it you're aware that Ms Gobbo was acting for
12:25:41 44 Mr Karam in a trial at about that time?---I believe so,
12:25:47 45 yes.
12:25:47 46
12:25:49 47 And throughout the period in which you were the controller

12:25:54 1 you were receiving information from Mr Anderson regularly
12:25:58 2 about Ms Gobbo and the provision of information with
12:26:04 3 respect to Mr Karam and Mr Karam's conduct, criminal
12:26:10 4 conduct, is that right?---That's fair, yes.
12:26:12 5
12:26:25 6 Obviously that wasn't the only information you received,
12:26:29 7 but in the period of time that you were the controller in
12:26:32 8 this month, that's the sort of information that you were
12:26:35 9 getting?---Yes, I agree with that.
12:26:38 10
12:26:45 11 If we go to 6 April 2007 in the SML. Do you see at the
12:26:57 12 bottom of the page there, Ms Gobbo's enjoying arguing with
12:27:00 13 Mr Anderson?---Yes.
12:27:02 14
12:27:03 15 Being told not to involve herself in the Karam import and
12:27:07 16 no indemnity has been given?---Yes.
12:27:09 17
12:27:10 18 She's not overly concerned about the threats at this
12:27:14 19 stage?---Yes.
12:27:14 20
12:27:15 21 And that's a reference to threats that she's been
12:27:18 22 receiving, is that right?---That's correct, yes.
12:27:19 23
12:27:27 24 If we go down to 10 April 2007. Was there a discussion
12:27:40 25 that was reported to you about Ms Gobbo being concerned
12:27:45 26 about the upcoming arrest of Horthy Mokbel?---I'm just
12:27:56 27 reading off the SML so I'm not sure where that comes into
12:28:00 28 it.
12:28:00 29
12:28:01 30 Have a look at 10 April 2007?---Yes.
12:28:03 31
12:28:04 32 "RS wanted to know about the Geelong shooting and discussed
12:28:07 33 issues with Anderson about the arrest of Horthy Mokbel."
12:28:10 34 Then we go to the 12th. There's a management issue, he's
12:28:17 35 "To be arrested on 13 April 2007. Discussion of scenarios,
12:28:19 36 possible outcomes with Mr Anderson" and he was advised not
12:28:23 37 to tell Ms Gobbo about the impending arrest, do you see
12:28:27 38 that?---Yes, I see that.
12:28:28 39
12:28:28 40 Then on the 13th he's arrested?---Yes.
12:28:31 41
12:28:31 42 And on the 15th there's an entry that he receives a call on
12:28:45 43 a Saturday night, "She is at the greatest height of
12:28:49 44 resentment towards Victoria Police and Purana due to the
12:28:55 45 arrest of Horthy Mokbel and her not being invited to drink
12:28:56 46 celebrations". Were you aware of that?---Not aware of it,
12:29:01 47 I'm reading it now.

12:29:03 1
12:29:03 2 She was upset about not being invited to celebrations, do
12:29:08 3 you see that?---Yes, I see that.
12:29:09 4
12:29:09 5 She's offered to read the summary and believes the police
12:29:13 6 will mess up the brief and are incompetent, she has been
12:29:16 7 told by Mr Anderson to let it go as their original goal has
12:29:20 8 been met, that is the arrest of Horthy, and she's on an
12:29:26 9 emotional roller coaster?---Yes, I see that.
12:29:28 10
12:29:29 11 Did you get the impression at that stage as the
12:29:32 12 handler/controller that she was emotionally
12:29:38 13 unstable?---That's a fair comment.
12:29:40 14
12:29:42 15 On 17 April she was still emotional, do you accept that,
12:29:48 16 that you were told that, she wants to see Horthy Mokbel in
12:29:50 17 the cells and she's been told by her handler not to get
12:29:54 18 involved and she's disobeying all instructions given by
12:30:02 19 Mr Anderson?---Yes.
12:30:03 20
12:30:03 21 She's dissatisfied with the psychologist, do you see
12:30:08 22 that?---Yes, I see that, yep.
12:30:09 23
12:30:11 24 She's been to Renate Mokbel's court case for no reason.
12:30:16 25 She saw Roberta Williams who told her she was a dog, do you
12:30:21 26 see that?---Yes.
12:30:22 27
12:30:23 28 She's not following instructions, she's behaving
12:30:26 29 erratically, she is trying to get herself involved in
12:30:31 30 matters she has been told to leave alone?---Yes.
12:30:33 31
12:30:34 32 That's on the 17th. Then on the 19th she's still
12:30:36 33 emotional, she's waiting for the bail hearing to finish,
12:30:39 34 then she's going off to Queensland to do a trial for Faruk
12:30:45 35 Orman?---Yes.
12:30:45 36
12:30:46 37 Now she has got herself on to Horthy Mokbel's phone
12:30:50 38 list?---Right.
12:30:50 39
12:30:50 40 Do you see that?---Yes, I see that.
12:30:52 41
12:30:53 42 It's quite apparent that she's clearly disobeying the
12:30:57 43 instructions of the SDU. She's getting herself?---Yes.
12:31:01 44
12:31:01 45 Putting herself involved, getting herself on the phone
12:31:05 46 list, do you see that?---Yes, I do.
12:31:07 47

12:31:07 1 This concern is set out by you because on 20 April there's
12:31:15 2 three telephone calls between Gobbo and Mr Anderson. She's
12:31:20 3 still emotional, she still wants to be thanked. She states
12:31:24 4 that - it says he but I suggest she is owed \$5.3 million by
12:31:29 5 Victoria Police for her work and time. She's seeing Mick
12:31:35 6 Gatto tonight for business only. She's contemplating going
12:31:41 7 to a law conference in Bali and she wants advice from
12:31:48 8 Anderson who tells her make her own decisions. And then
12:31:51 9 she gives information about Karam's friend in the gun
12:31:58 10 raids, et cetera. Do you see that?---Yes.
12:32:01 11
12:32:04 12 She's still refusing to see a psychologist. Move over the
12:32:12 13 page to 20 April. Perhaps if we just go up a bit. There's
12:32:17 14 been an offer made by her by a journalist. She's been
12:32:22 15 offered expense money and half the reward for the capture
12:32:26 16 of Tony Mokbel. She apparently is considering that but
12:32:29 17 she's told by Mr Anderson not to accept the offer, do you
12:32:33 18 see that?---Yes.
12:32:34 19
12:32:36 20 Was that a concern to you as the controller?---I'm not sure
12:32:42 21 I was the controller but at that time.
12:32:45 22
12:32:45 23 What I'm suggesting to you is that you were the controller
12:32:49 24 until about?---Okay.
12:32:51 25
12:32:51 26 27 April?---Yep. I don't specifically remember it. Is it
12:32:55 27 a concern? A lot of things were a concern, absolutely.
12:33:01 28
12:33:02 29 And she's still refusing to see a psychologist?---Yes.
12:33:05 30
12:33:05 31 She wants Anderson to tell her what to do with her life and
12:33:11 32 he tells her to make her own decisions?---Yes.
12:33:14 33
12:33:14 34 Do you accept that at this stage it's quite apparent that
12:33:21 35 Ms Gobbo is psychologically in quite a degree of
12:33:29 36 difficulty?---Yes, I agree.
12:33:30 37
12:33:32 38 And simply shouldn't be a human source and doing the sorts
12:33:37 39 of things, providing the sorts of information that Victoria
12:33:41 40 Police are getting from her?---No, I disagree with that.
12:33:48 41
12:33:49 42 Sorry, you disagree with that?---Yes.
12:33:52 43
12:33:52 44 You do? You think it's entirely appropriate, even despite
12:33:57 45 all these things, for her to be a human source?---So one of
12:33:59 46 the parts of being a human source for Victoria Police is
12:34:01 47 ensuring her safety and ensuring their identity isn't

12:34:07 1 compromised, so from the point of view of that, she still
12:34:13 2 needs to remain as a human source, not necessarily tasked,
12:34:17 3 but obviously to keep that welfare and our obligation is to
12:34:22 4 look after 3838 so that's the part that absolutely needs to
12:34:26 5 be retained.
12:34:26 6
12:34:33 7 Is it the case that any of this intelligence was being
12:34:36 8 passed on or not?---I'm not sure. If I look to the side to
12:34:47 9 see whether there's an IR reference but it appears no.
12:34:51 10
12:34:52 11 Would you have been consulting the ICRs to ensure that
12:34:57 12 there was no information being passed on?---Correct.
12:35:01 13
12:35:02 14 Would you have been doing that?---Yes.
12:35:04 15
12:35:05 16 Would you have been making your views known that it
12:35:09 17 shouldn't be passed on or what?---I'd have to look back in
12:35:13 18 time to see when tasking was still occurring and when the
12:35:17 19 receiving of information was occurring, so I'm sorry, I
12:35:21 20 can't give you a definitive answer on that.
12:35:23 21
12:35:23 22 Did you get a hand over report from Mr White when you took
12:35:27 23 over as the controller?---No, I think we spoke about that
12:35:30 24 on the Friday that it was up to me to have a verbal
12:35:37 25 communication with Mr White prior to.
12:35:39 26
12:35:44 27 If we then move on to the 24th. If we can just scroll
12:35:55 28 down. Do you see in that entry there's a red box around a
12:36:08 29 person who wants to see Ms Gobbo, do you see that?---Yes, I
12:36:10 30 do.
12:36:10 31
12:36:16 32 She's spoken to Mr Anderson about Orphanides' trial and
12:36:22 33 told not to change behaviour or anything else she would
12:36:25 34 normally do?---Yes.
12:36:26 35
12:36:31 36 On 27 April there's a reference to a call from Ms Gobbo, a
12:36:37 37 free call to Anderson. She's been asked to pass on a
12:36:41 38 letter from Horty Mokbel to Karam, told by Mr Anderson not
12:36:46 39 to get involved and she'll not be indemnified, she opened
12:36:52 40 the letter against Anderson's instructions. Do you see
12:36:56 41 that?---Yes, I see that.
12:36:58 42
12:36:59 43 And she states that the letter relates to an importation of
12:37:03 44 cigarettes by Karam and she's instructed to inform Karam
12:37:08 45 that she does not want to be involved in anything
12:37:12 46 illegal?---Yes.
12:37:13 47

12:37:14 1 Do you say that there was no information being passed on at
12:37:17 2 this stage?---Yes.
12:37:18 3
12:37:22 4 The evidence is that that's the end of the period of your
12:37:28 5 controlling in that month. Then you were subsequently a
12:37:32 6 controller on 3 July to 17 July of 2007. Does that accord
12:37:38 7 with your diary entries?---Yes, it would, that sounds
12:37:43 8 correct.
12:38:26 9
12:38:26 10 The evidence appears to be that Mr White's on leave from
12:38:29 11 about 3 July to 17 July and you take over duties of
12:38:33 12 controller during that period?---Yes.
12:38:35 13
12:38:35 14 If you have a look at the SML that seems to bear that
12:38:38 15 out?---Yes.
12:38:39 16
12:38:44 17 On 4 July as part of your role you speak to Mr Green, is
12:38:49 18 that right?---Yes, yes. Sorry, I was just looking for the
12:38:57 19 name.
12:38:57 20
12:38:59 21 You see that, change of controller?---Yes.
12:39:01 22
12:39:03 23 Sandy White to yourself?---Yes.
12:39:05 24
12:39:06 25 And she's been getting SMSes during Karam's trial. She's
12:39:11 26 been SMSing with Mr Karam during the trial. The messages
12:39:16 27 have been direct quotes from the TI material being
12:39:19 28 contested at the trial. She thought it was funny, just a
12:39:22 29 game, that she was playing with Karam. The messages
12:39:29 30 alluded to importing drugs. She's told that she doesn't
12:39:33 31 have an indemnity and to cease the messages immediately.
12:39:37 32 She's told no to get herself involved in any drug dealing
12:39:41 33 or conversation and to provide intelligence where
12:39:44 34 possible?---Yes.
12:39:45 35
12:39:45 36 Clearly at that stage the view is taken that she can and
12:39:49 37 should be providing intelligence, is that right?---I think
12:39:51 38 the gist of the conversation is not to involve herself and
12:39:55 39 to provide intelligence where possible if it comes up. So
12:40:00 40 it's not a tasking, no.
12:40:01 41
12:40:01 42 She's been asked to provide intelligence. You say that's
12:40:06 43 not tasking?---Well she's been told not to involve herself
12:40:10 44 in conversations or drug dealing, to provide intelligence
12:40:13 45 where possible. To me that would mean if something is
12:40:17 46 heard, absolutely to pass it on.
12:40:18 47

12:40:26 1 Did you understand that around this time there were
12:40:29 2 concerns about Ms Gobbo's conduct because there was some
12:40:37 3 suggestion that the Federal Police were getting access to
12:40:42 4 the communications between Gobbo and Karam?---Yes.
12:40:46 5
12:41:04 6 Can I ask you whether you were aware when there were court
12:41:08 7 proceedings going on, and I'm not going to mention the
12:41:12 8 particular names, but have a look at the top of the page,
12:41:17 9 for example. Do you see that?---Yes.
12:41:22 10
12:41:23 11 This obviously occurs immediately prior to you taking over
12:41:27 12 as controller, but no doubt you would have been aware of
12:41:30 13 that document and you would have filled out this document,
12:41:33 14 correct?---Yes, that's correct.
12:41:33 15
12:41:34 16 Have a look at that entry at the top, the person states in
12:41:37 17 the second interview that he had advice on the phone from
12:41:43 18 Ms Gobbo and then spoke to the same at the police
12:41:46 19 station?---Yes.
12:41:47 20
12:41:48 21 And that he will claim privilege regarding Ms Gobbo's
12:41:52 22 instructions on the night if he's asked, right?---Yes, I
12:41:57 23 see that, yes.
12:41:58 24
12:41:59 25 Are you aware that these, that she was giving him advice
12:42:06 26 about what to claim and when to claim legal professional
12:42:10 27 privilege and the police - - - ?---No.
12:42:13 28
12:42:13 29 You weren't aware of that?---No.
12:42:15 30
12:42:15 31 Were you aware that members of Victoria Police were
12:42:18 32 providing him instructions about claiming legal
12:42:23 33 professional privilege if he was asked questions about her
12:42:27 34 representing him?---Yeah, no, I'm not aware of that.
12:42:31 35
12:42:33 36 And are you aware that that occurred with clients or
12:42:36 37 persons other than simply the person whose name that we can
12:42:41 38 see there?---I can see that but I'm not aware of that, no.
12:42:45 39
12:42:47 40 But is that something that was discussed amongst the
12:42:50 41 members of the SDU, that that was something that was going
12:42:57 42 on, that is that these witnesses were being told by either
12:43:01 43 Ms Gobbo or by members of Victoria Police what they should
12:43:05 44 say if they were asked about Ms Gobbo's
12:43:09 45 involvement?---Going by that person that we can see there,
12:43:12 46 I know that that was discussed, yes.
12:43:13 47

12:43:20 1 Do you say that the fact of a person representing someone
12:43:25 2 is a matter which is the subject or which can be the
12:43:28 3 subject of a claim of legal professional privilege, that is
12:43:32 4 just a particular person provided advice to another
12:43:38 5 person?---As a, I'm trying to think of the words, as
12:43:43 6 someone directly representing them, is that - - -
12:43:47 7
12:43:47 8 Let's say I represented you?---Yep.
12:43:49 9
12:43:49 10 And you were asked whether or not I represented you, would
12:43:54 11 that be the subject of legal professional privilege as
12:43:56 12 opposed to anything we might have discussed?---That sounds
12:44:00 13 fair.
12:44:00 14
12:44:00 15 So the fact of representation is not LPP but what's
12:44:04 16 discussed during the course of the meeting is?---Smarter
12:44:09 17 people than me would be able to tell you that but that
12:44:12 18 sounds fair.
12:44:13 19
12:44:13 20 Obviously you're not a lawyer and it may well be if you
12:44:18 21 really wanted to know the answer to that question you may
12:44:22 22 well need to get some legal advice about it?---That's fair,
12:44:25 23 yes.
12:44:25 24
12:44:25 25 We know that that was never done by the SDU during this
12:44:28 26 period?---That's correct.
12:44:30 27
12:44:34 28 If we go on during the period that you were the controller.
12:44:39 29 We can see that there's an entry on the 4th which
12:44:51 30 apparently has been made by you. There's a reference to
12:44:53 31 Operation Agamas targeting a shipping container. Messages
12:45:01 32 had been intercepted at this stage by the Drug Task Force
12:45:04 33 that presume that Ms Gobbo is somehow involved in the
12:45:07 34 importation. Do you see that?---Yes, I do.
12:45:10 35
12:45:10 36 Mr Green at that stage was updated, sorry, he was at the
12:45:17 37 Drug Task Force, is that your understanding?---Yes.
12:45:19 38
12:45:20 39 And he was updated regarding the scenario and informed that
12:45:23 40 Ms Gobbo had been directed to cease the messaging?---Yes, I
12:45:29 41 see that.
12:45:31 42
12:45:31 43 And there was a request to apply for an intercept on her
12:45:34 44 mobile phone?---Yes.
12:45:35 45
12:45:39 46 And that was an issue that you had to deal with when you
12:45:42 47 were the controller, is that right?---Yes, that's right.

12:45:45 1
12:45:48 2 And the application, there was, "Discussed scenario were
12:45:56 3 Biggin and due to the fact there were Homicide operations
12:46:00 4 having priority over a drug job, the application will be
12:46:02 5 submitted and considered as per normal". What does that
12:46:07 6 indicate? Do you have a recollection of speaking to
12:46:12 7 Mr Biggin about that?---I don't but the entry makes sense.
12:46:16 8
12:46:16 9 What does it mean, that it's unlikely that they get a TI on
12:46:24 10 her phone?---Yeah, unlikely due to other jobs having
12:46:27 11 priority considering Mr Biggin was responsible for that
12:46:31 12 area.
12:46:32 13
12:46:33 14 Was there any concern that Ms Gobbo might have been
12:46:35 15 involving herself improperly?---I'm not sure. From the
12:46:43 16 conversations that you can see above, that she has talked
12:46:48 17 about what she was doing in reference to being a part of
12:46:55 18 the game, that's what I take that as a reference to.
12:46:58 19
12:46:58 20 That was assumed to be correct and nothing more was done
12:47:01 21 about that, is that right?---That's correct.
12:47:03 22
12:47:03 23 Do you know whether it was, whether the SDU sought to
12:47:08 24 obtain copies of the text messages?---I'm not sure. I
12:47:14 25 couldn't say.
12:47:15 26
12:47:15 27 In any event, a new mobile was given to Ms Gobbo. If we go
12:47:19 28 over the page. Do you see that, 4 July?---Yes, yep.
12:47:29 29
12:47:42 30 And it's quite apparent that at this stage Ms Gobbo is
12:47:49 31 representing Mr Karam because if we have a look at the 6th
12:47:53 32 of the 7th Mr Fox has spoken to Ms Gobbo. "She didn't
12:47:56 33 contact anyone last night. Today the jury will give a
12:47:59 34 verdict on the Karam trial"?---Yes, I see that now, yep.
12:48:06 35
12:48:07 36 And then ultimately, if we go over the page, it seems that
12:48:18 37 he's acquitted and Ms Gobbo's going to the waterfront for
12:48:24 38 the celebrations, do you see that?---Yes, I do.
12:48:26 39
12:48:27 40 At that stage, on 8 July she is complying with requests by
12:48:32 41 the handlers and Operation Agamas is progressing without
12:48:36 42 the assistance and the intelligence from Ms Gobbo?---Yes.
12:48:39 43
12:48:40 44 We can see that. Then if we move down to 12 July. We see
12:48:51 45 that inquiries are being made by Deputy Commissioner
12:48:56 46 Overland re prohibiting certain questions of Ms Gobbo at
12:49:03 47 the OPI hearing that would reveal her role as a source. Do

12:49:06 1 you see that?---Yes, I see that, yes.
12:49:08 2
12:49:12 3 That's obviously an issue which arises at about that time
12:49:17 4 and there's no further entries that are made in the SML
12:49:22 5 until 17 July when you change out of being the controller
12:49:27 6 and Mr White returns. Do you agree with that?---Yes, I
12:49:32 7 agree with that.
12:49:32 8
12:49:35 9 And Ms Gobbo's passed back over to the safe hands of
12:49:39 10 Mr White. Was that a relief, to get her off her
12:49:44 11 hands?---Yes.
12:49:44 12
12:49:45 13 Because of the multiple difficulties, I would assume, that
12:49:51 14 would arise if you were responsible for controlling
12:49:53 15 Ms Gobbo, is that fair to say?---I think it's fair to say
12:49:55 16 that my workload had a lot more to do with 3838 at that
12:50:00 17 stage and it was - yeah.
12:50:01 18
12:50:03 19 But then you have a meeting with - it says meeting between
12:50:12 20 human source, Fox, yourself and Mr Smith. Do you recall
12:50:28 21 having a meeting with Ms Gobbo on that day or not? Because
12:50:31 22 you say you've never met her?---Correct, no, I wasn't at
12:50:34 23 that meeting.
12:50:35 24
12:50:36 25 Have you got your diary there for 17 July?---Yes, I do.
12:50:40 26
12:50:41 27 Were you at a meeting which Mr White was at on that
12:50:49 28 day?---There is - I was present in a different capacity. I
12:50:53 29 never attended the meeting.
12:50:55 30
12:50:56 31 What, over the phone or - - - ?---Just - - -
12:51:00 32
12:51:01 33 Hang on, hang on. If you have a look at the entries in
12:51:27 34 that box against 17 July where it's suggested that you're
12:51:38 35 present. Clearly what you say is you weren't present.
12:51:42 36 Those matters that are listed there, just read them?---Yep,
12:51:53 37 yep.
12:51:53 38
12:51:54 39 Were you generally aware of those issues at that time?---I
12:51:59 40 think that's fair to say, yes.
12:52:00 41
12:52:02 42 So the answer is yes, you were. Do you agree with - -
12:52:13 43 -?---I'm reading again to be sure I don't give you a false
12:52:20 44 answer. I don't know about the Chairman, no. Did I know
12:52:23 45 that there was an issue? Absolutely. Did I know that DDI
12:52:28 46 Ryan was involved? No. Discuss issues about witness and
12:52:35 47 source, yes.

12:52:37 1
12:52:37 2 Okay?---Yep.
12:52:38 3
12:52:38 4 So what you can say is look, you'd certainly been made
12:52:43 5 aware of the inquiries being made by Mr Overland,
12:52:47 6 prohibition of certain questioning of her?---Yes.
12:52:50 7
12:52:50 8 The issues that arose because of that and the potential for
12:52:54 9 real problems as far as Ms Gobbo's role as a human source
12:52:58 10 coming out?---Agreed.
12:53:01 11
12:53:06 12 The following day, on 18 July 2007, Mr O'Brien met with
12:53:15 13 Mr White and they discussed the possibility of Ms Gobbo's
12:53:20 14 compromise, as I've just discussed with you, right?---Yes.
12:53:25 15
12:53:26 16 And the meeting was in the context of Ms Gobbo being called
12:53:31 17 to attend the OPI hearing about the death of the Hodsons
12:53:34 18 and her association with police officers, including Paul
12:53:37 19 Dale. And during the course of that meeting between
12:53:44 20 Mr White and Mr O'Brien, there was a discussion about the
12:53:48 21 possibility of Ms Gobbo being utilised as a witness by
12:53:53 22 Mr O'Brien. He raised that possibility, right?---I'm not
12:53:57 23 sure, I wasn't there.
12:53:58 24
12:53:58 25 I understand that. And Mr White advised against it.
12:54:02 26 Mr O'Brien was suggesting that it would be inevitable that
12:54:05 27 she would be compromised and she should be utilised as a
12:54:09 28 witness whilst we can?---It reads "not inevitable she would
12:54:20 29 be compromised".
12:54:22 30
12:54:22 31 The position as far as Mr White was concerned is that the
12:54:27 32 value of the witness needed to be weighed, as her as a
12:54:31 33 witness, needed to be weighed against the political fall
12:54:35 34 out from the legal fraternity and it's he - I'm going from
12:54:41 35 his notes, you can take it that this is what he was
12:54:44 36 concerned about. "Will it impact on a particular person's
12:54:46 37 conviction and others?" And there was an agreement at
12:54:52 38 least recorded in Mr White's diaries that "need legal
12:54:58 39 advice re fall out and possibility of convictions of a
12:55:01 40 particular person and others being impacted because" - now,
12:55:09 41 that appears to be a concern that was in Mr White's mind as
12:55:19 42 a result of that meeting on 18 July. Do you follow what
12:55:23 43 I'm saying?---I can't comment on what Mr White writes in
12:55:28 44 his diary on that.
12:55:30 45
12:55:30 46 No, I understand that. I'm not suggesting you were there
12:55:32 47 or that you know what's in his diary save for what I've

12:55:36 1 told you. It's quite clear that at that stage there is a
12:55:40 2 concern on the part of Mr White at least of the possibility
12:55:44 3 of convictions being impacted upon of a particular person
12:55:50 4 and others, if Ms Gobbo became a witness. So what I'm
12:55:58 5 really getting to is that in about the middle of 2007 the
12:56:03 6 very concerns that subsequently are recorded at the end of
12:56:06 7 2008 are continuing to be discussed in mid-2009, are being
12:56:13 8 recorded by Mr White in his diary, right, do you follow
12:56:16 9 that?---I follow that, but I can't comment on what - I
12:56:21 10 haven't seen his diary.
12:56:22 11
12:56:22 12 No, I understand that. But that's consistent with the
12:56:25 13 concerns that you had and you've expressed to this Royal
12:56:36 14 Commission, do you accept that?---Yes.
12:56:38 15
12:56:41 16 Then two days later on 20 July there's a monthly source
12:56:46 17 review. Do you see that?---Yes.
12:56:49 18
12:56:50 19 And that's a meeting that you were at. Do you accept that?
12:56:59 20 Have a look at your diary on 20 July?---I believe I would
12:57:07 21 have been.
12:57:09 22
12:57:10 23 Do you not have your diary for that day?---Yes, I have.
12:57:12 24 We've got an office meeting at 13:00 hours and I've made
12:57:18 25 just an assumption that that was part of it, so yes.
12:57:21 26
12:57:24 27 Is Mr Hardy there on that occasion?---In my notes I have an
12:57:32 28 office meeting at 13:00 hours until 18:00 hours.
12:57:35 29
12:57:36 30 That's all you've got, 13:00 to 18:00 hours the meeting, is
12:57:41 31 that right?---Yes, when I was at the office, including an
12:57:44 32 office meeting.
12:57:45 33
12:57:45 34 Perhaps if we have a look at an entry in Mr White's diary,
12:57:49 35 VPL.2000.0001.0671. You'll see at 13:00 there's a unit
12:58:12 36 meeting?---Yep.
12:58:13 37
12:58:13 38 We can see that you're present?---Yes.
12:58:17 39
12:58:18 40 We can see that Mr Hardy is present, one assumes DDI
12:58:25 41 RH?---Yes.
12:58:25 42
12:58:25 43 We can see Mr White's present?---Yes, all those people. I
12:58:28 44 see that, yes.
12:58:29 45
12:58:29 46 Mr Fox and all of those people are there?---Yes.
12:58:34 47

12:58:36 1 Would it be fair to say that during the course of that
12:58:39 2 meeting it's likely that the sorts of issues that I've
12:58:47 3 asked you about, that is concerns about the possibility of
12:58:51 4 convictions being impacted upon, the sorts of concerns that
12:58:55 5 Mr White had been discussing with Mr O'Brien two days
12:59:00 6 previously, would those sorts of concerns - do you say as a
12:59:05 7 matter of probability those sorts of concerns would have
12:59:09 8 been discussed at the unit meeting?---I couldn't comment on
12:59:13 9 that. I go back to I think what you showed me before,
12:59:17 10 which I think was the source review. Absolutely that
12:59:21 11 obviously comes out of the conversation as the source
12:59:25 12 review and what is logged within that would have been the
12:59:28 13 topic of conversation. I'm not saying it did or didn't, I
12:59:32 14 can't recall that meeting from then.
12:59:33 15
12:59:33 16 I follow that. But it would have been - you say there were
12:59:37 17 sorts of discussions which included discussions about the
12:59:41 18 possibility of convictions being impacted upon?---Yes, I'm
12:59:47 19 not denying there would have been, yes, absolutely.
12:59:49 20
12:59:49 21 You recall having those discussions?---Yes.
12:59:51 22
12:59:54 23 If there were those sorts of discussions you would accept
12:59:57 24 that as a matter of course they should have been referred
13:00:00 25 to in the source management log?---Yes, which is obviously
13:00:06 26 current in that source management review document you
13:00:09 27 showed me before.
13:00:10 28
13:00:10 29 If, for example, it was raised that the use of Ms Gobbo had
13:00:17 30 potentially resulted in an unsafe conviction, that is the
13:00:22 31 very sort of thing that should have been put into the
13:00:25 32 source management log, do you accept that proposition?---If
13:00:29 33 that was spoken about at the time during that review
13:00:31 34 session, yes.
13:00:32 35
13:00:33 36 And even if it wasn't spoken about, but if it occurred to a
13:00:37 37 controller, that's the sort of thing that should have been
13:00:41 38 put into the source management log, shouldn't it?---Yes.
13:00:44 39
13:00:47 40 And the impetus for that discussion between, if I can put
13:00:53 41 this to you, between Mr O'Brien and Mr White, was Ms Gobbo
13:00:59 42 being called before the OPI?---That would - - -
13:01:02 43
13:01:03 44 And potentially being a witness, discussion about her
13:01:06 45 becoming a witness, and then the consequences of that
13:01:09 46 course of action, that is her becoming a witness, being the
13:01:13 47 fall out within the legal fraternity and the potential for

13:01:18 1 convictions to be impacted upon, right?---I believe that
13:01:22 2 conversation you showed me before was about keeping her
13:01:25 3 identity confidential, not anything more than that at the
13:01:29 4 time. I agree with what you're saying but I'm just saying
13:01:36 5 in relation to that specific instance that you're calling
13:01:40 6 upon with Mr O'Brien, it doesn't mention that. It just
13:01:44 7 mentions the fact that the identity of 3838 would be
13:01:47 8 compromised.
13:01:47 9

13:01:48 10 If you accept it from me that those words are included in
13:01:53 11 the notes of Mr White?---Yes.
13:01:54 12

13:01:55 13 Question, will it impact on a particular person's
13:01:59 14 conviction and others? Agreed need legal advice re fall
13:02:03 15 out about the possibility of convictions of the person and
13:02:05 16 others being impacted upon. That's the sort of thing that
13:02:08 17 should be in the source management log so as those people
13:02:12 18 who are over sighting, if you like, who you say are obliged
13:02:17 19 to look at the records, that's the sort of thing they would
13:02:20 20 need to be reading, wouldn't it?---Or be party to the
13:02:24 21 conversation which Mr Hardy was.
13:02:29 22

13:02:29 23 Apparently he was, yes. And so what you would say is if it
13:02:33 24 wasn't reported up, if it stayed within that room, didn't
13:02:37 25 go into the source management log, well that's entirely
13:02:43 26 inappropriate, do you accept that proposition?---Yes, I do.
13:02:46 27

13:03:06 28 Commissioner, there are some matters I need to discuss with
13:03:10 29 this witness in a particular environment. What I might do
13:03:17 30 - actually, what I might do is move on to a different, I'll
13:03:21 31 move out of sequence and move on to another topic, perhaps
13:03:24 32 we can deal with it after lunch. But there are some issues
13:03:30 33 that need to be dealt with because of their utmost
13:03:36 34 sensitivity in - - -
13:03:36 35

13:03:37 36 COMMISSIONER: I think we can say it relates to protecting
13:03:37 37 the identity of informers.
13:03:40 38

13:03:40 39 MR WINNEKE: The identity of informers, yes. There's no
13:03:41 40 question that we're not here to expose informers other than
13:03:45 41 Ms Gobbo.
13:03:46 42

13:03:46 43 COMMISSIONER: I don't know the details but I accept that
13:03:49 44 your assessment of it is that it's clearly something that
13:03:55 45 has to be done in a truly closed court environment. So for
13:03:59 46 that part of the examination it will have to be in a
13:04:04 47 properly closed court and so how about we resume after

13:04:11 1 lunch? It involves particular care being taken with the
13:04:16 2 transcription. We'll resume after lunch with that.
13:04:22 3
13:04:23 4 MR WINNEKE: Yes.
13:04:23 5
6 COMMISSIONER: We can deal with that straight after lunch?
7
8 MR WINNEKE: Yes, Commissioner, we can deal with that
9 straight after lunch.
10
11 COMMISSIONER: And how long do you anticipate that - - -
12
13 MR WINNEKE: It's a bit difficult to say but I don't
14 anticipate that it will be too long. Obviously there is an
15 issue that's important to the Terms of Reference of this
16 Royal Commission we need to look into. It may not take too
17 long. If we can exclude it, that will be good. If we
18 can't, it might take a little bit longer. I simply cannot
19 give you any more information about that. I'll have a
20 discussion with Mr Holt over lunch.
21
22 COMMISSIONER: I think it will be convenient if we resume
23 after lunch then in a closed session, that will mean only
24 those with standing leave to appear.
25
26 MR HOLT: Commissioner, it may not even be that given the
27 particular people who are involved.
28
29 COMMISSIONER: Right. So who should be present?
30
31 MR HOLT: For these purposes, Commissioner, our submission
32 would be obviously Victoria Police, the State of Victoria.
33 We're not sure that anyone else needs to be present for
34 these purposes.
35
36 COMMISSIONER: What about the legal representative of the
37 witness?
38
39 MR HOLT: Of course, Commissioner, I'm sorry. And subject
40 to undertakings. I'm sorry, that was an oversight on my
41 part.
42
43 COMMISSIONER: Yes. And no one else?
44
45 MR HOLT: No, Commissioner.
46
47 COMMISSIONER: All right, just to let you know we'll be

13:05:29 1 resuming after lunch at 2 o'clock with nobody present other
13:05:37 2 than the Commission's representatives and the legal
13:05:41 3 representatives for Victoria Police and the witness.
13:05:48 4
13:05:49 5 MR HOLT: I should say, Commissioner, we'll be limiting the
13:05:51 6 number of people present for Victoria Police to the
13:05:56 7 absolute minimum. We will be grateful if others could do
13:05:59 8 the same.
13:06:02 9
13:06:02 10 COMMISSIONER: Yes. We can continue in the meantime, we've
13:06:05 11 still got a few - ten minutes or so left before the lunch
13:06:09 12 break.
13:06:10 13
13:06:10 14 MR WINNEKE: I think I can, Commissioner. Mr Richards,
13:06:21 15 you, it seems, became the controller again of Ms Gobbo at
13:06:28 16 around the time that I was dealing with you before, around
13:06:35 17 December of 2008, is that right?---That could be correct,
13:06:40 18 yes.
13:06:40 19
13:06:40 20 Can you check your diary?---Yes, sure.
13:06:43 21
13:06:43 22 Let us know?---Just bear with me, I have to access my
13:06:51 23 electronic diary.
13:06:53 24
13:06:53 25 Yes?---Excuse me, what date was that, I'm sorry?
13:07:22 26
13:07:22 27 December of 2008?---Yes.
13:07:25 28
13:07:28 29 On my analysis you were controlling Ms Gobbo on three
13:07:34 30 occasions, or insofar as you could, April, July of 07 and
13:07:39 31 then subsequently in late 2008 into 2009?---Yes. Yes, from
13:07:47 32 29 December.
13:07:48 33
13:07:49 34 Until I think - until when?---I believe it was back through
13:08:20 35 to the 4th, Sunday 4 January.
13:08:25 36
13:08:25 37 At which time I think Mr White resumed from leave, is that
13:08:28 38 right, and he then was the controller again, is that
13:08:31 39 right?---Yes, that's correct, yes.
13:08:32 40
13:08:36 41 That's why I assume you were very much involved in the
13:08:40 42 preparation of the SWOT analysis, or at least the, involved
13:08:47 43 in the lead up to the preparation of the SWOT analysis
13:08:54 44 which was ultimately provided to Mr Biggin for him in turn
13:08:58 45 to provide to his superiors, is that right?---So the
13:09:02 46 meeting we referenced earlier today, yes.
13:09:06 47

13:09:06 1 Yes?---On the 31st.
13:09:08 2
13:09:09 3 Yes, correct. And if, for example, we go to
13:09:22 4 VPL.6029.0001.0014. Whilst we're waiting, you get an email
13:10:13 5 from Mr Black and two other members of the unit?---Yes.
13:10:20 6
13:10:21 7 He says, "An issue is coming to a head concerning our good
13:10:25 8 friend 38", which is obviously Ms Gobbo, "We will sit down
13:10:28 9 and discuss the issue when everyone gets in this morning.
13:10:31 10 Please make yourself available for one hour, regards" and
13:10:35 11 Mr Black uses his nickname, do you see that, or are you
13:10:39 12 aware of that?---Yes, that would be right.
13:10:44 13
13:10:46 14 And it's as a consequence of that, that you come in and
13:10:51 15 have a discussion with them on New Year's Eve, 31 December
13:10:57 16 2008. Were you on leave at that stage?---No, I was on
13:11:05 17 duty.
13:11:06 18
13:11:08 19 As a consequence of that you sit down and you have that
13:11:11 20 meeting in the morning and during the course of the day the
13:11:15 21 SWOT analysis is prepared, is that right?---As we spoke
13:11:18 22 about yes, absolutely.
13:11:20 23
13:11:21 24 And then subsequent to that you were involved in
13:11:25 25 discussions with Ms Gobbo's handler and he was basically
13:11:36 26 communicating with her and informing you about discussions
13:11:40 27 that were going on, is that right?---Yes, that's correct.
13:11:43 28
13:12:01 29 Can we take it that any entries in the source management
13:12:08 30 log in the times that you're the handler, that is from 30
13:12:13 31 December through to about 4 - - - ?---Yes.
13:12:19 32
13:12:19 33 They're yours, are they?---Yes, that would be correct.
13:12:23 34
13:12:26 35 Mr Green is handling at that stage?---Yes.
13:12:30 36
13:12:30 37 And there's an entry to this effect, on 30 December 2008
13:12:36 38 from the source management log, that Ms Gobbo advises
13:12:40 39 Mr Green that she intends to make a statement to the Petra
13:12:43 40 Task Force and she states that it's never been about the
13:12:47 41 money?---Okay.
13:12:49 42
13:12:52 43 And then on 31 December 2008, there's a reference to
13:12:59 44 Mr Green contacting you, "Ms Gobbo's unhappy that Dale
13:13:04 45 expects her to lie for him to protect him. She is to meet
13:13:10 46 with Petra investigators re signing a statement"?---Okay,
13:13:15 47 yes.

13:13:15 1
13:13:15 2
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13:13:44 7
13:13:44 8
13:13:51 9
13:13:57 10
13:13:59 11
13:13:59 12
13:14:03 13
13:14:06 14
13:14:13 15
13:14:17 16
13:14:21 17
13:14:25 18
13:14:29 19
13:14:33 20
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13:14:35 22
13:14:42 23
13:14:43 24
13:14:45 25
13:14:45 26
13:14:45 27
13:14:48 28
13:14:53 29
13:14:53 30
13:14:54 31
13:14:56 32
13:14:58 33
13:14:58 34
13:14:59 35
13:14:59 36
13:15:09 37
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And then on 3 January 2009 contact with Mr Green again.
She reports damage to her letterbox and that was reported
to Mr Rowe at Purana, is that right?---Yes.

If we go - how are we going with that - sorry, apologies.

COMMISSIONER: We can't seem to find it. It's pretty close
to lunch. I'll make the order, by the time we have done
that it will be absolutely lunchtime.

Pursuant to s.24 of the *Inquiries Act* 2014 access to
the inquiry during the evidence of Officer Richards, a
pseudonym, from 2 pm on 21 October 2019 until further order
is limited to: legal representatives and staff assisting
the Royal Commission, the legal representatives of both
Victoria Police and the witness. The hearing is to be
recorded but not streamed, broadcast or published until
further order. A copy of this order is to be posted on the
door of the hearing room.

All right then, we'll adjourn until 2 o'clock.

MR McDERMOTT: I don't think the State was included in the
order, Commissioner.

MR HOLT: We don't have any issue with the State.

COMMISSIONER: It wasn't one of the parties that was
mentioned in the earlier discussion.

MR HOLT: I think I did but I didn't make that clear, I'm
sorry.

COMMISSIONER: I'll amend that to say the legal
representatives of Victoria Police, the State of Victoria
and the witness.

All right, adjourn until 2 o'clock.

<(THE WITNESS WITHDREW)

LUNCHEON ADJOURNMENT

(IN CAMERA HEARING FOLLOWS)

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16:09:56 19
16:10:04 20
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16:10:29 31
16:10:29 32
16:10:44 33
16:11:00 34
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UPON RESUMING IN OPEN HEARING:

MR WINNEKE: Thank you Commissioner.

COMMISSIONER: I just note we're in open session.

MR WINNEKE: Yes, Commissioner. These matters I can deal with in open session. Mr Richards, I'm just going to deal with a number of disparate emails and communications that you were involved in over a period of time. If I can ask you to have a look at VPL.6047.0030.0301. That's an email to you from another handler, do you see that?---Yes.

And essentially what that is, you can have a look at it, but essentially there's a bit of a complaint that you have about spending most of your time keeping up-to-date with ICRs and IRs?---Yes.

Was that a bit of a common problem that you had?---I think it's a vent about the workload, yes, I agree with that.

The workload was fairly extraordinary I take it?---Yes, it was.

You're effectively saying, "Am I going too far sending this to Mr Black"?---Yes, it was a sense check.

A what?---A sense check.

A sense check?---A sense check as in - - -

I follow. Can we just scroll up a little, please. Just read that. Effectively what you're saying is, "We're that busy as a unit we shouldn't be touting for business or offering our services or doing presentations claiming to be able to assist in", et cetera, et cetera?---Yep.

And then there's a response to that. I'll tender that email chain.

#EXHIBIT RC596 - Email chain between Officer Wolf and Officer Richards dated 12/03/08.

Was that something that you were constantly struggling against, being overworked and the paperwork workload throughout the period of time that you were in the SDU?---That's a fair comment.

16:11:56 1
16:12:05 2 I take it that was something that was raised with the
16:12:08 3 officers, the various officers in charge that you had
16:12:12 4 throughout that time?---Yes, it was.
16:12:13 5
16:12:14 6 And did it ever, was it ever solved, that problem?---No.
16:12:20 7
16:12:22 8 Do you think it hampered the ability of the SDU to operate
16:12:28 9 to its best capability and full capacity?---Again, that's a
16:12:34 10 fair comment.
16:12:35 11
16:12:37 12 In a similar vein could I ask you to have a look at
16:12:45 13 VPL.6025.0002.0624. This is what appears to be an agenda
16:13:07 14 if you like for a meeting at the SDU, it's seminar minutes
16:13:12 15 actually, on 5 May - perhaps if - - -
16:13:18 16
16:13:19 17 MR HOLT: It has other human source information,
16:13:21 18 Commissioner. If it not be on the screens I'd be grateful.
16:13:31 19
16:13:31 20 COMMISSIONER: It's Exhibit 396.
16:13:34 21
16:13:36 22 MR WINNEKE: There's a reference, if we go to Wednesday 7
16:13:43 23 May 2008, there's a heading "managing workload of 2958".
16:14:00 24 Do you see that? "Currently five members in the office who
16:14:04 25 have been the source's handler. She's the most demanding
16:14:09 26 source in the office. There was a rotational system of one
16:14:13 27 month on and off" says Mr Anderson, "To stop a bond. We
16:14:19 28 already have confidence, do not need long-term handler who
16:14:22 29 she becomes comfortable with. After a couple of months
16:14:26 30 tend not to handle her as a source as she wears you down."
16:14:30 31 There was agreement about that. "She is at a stage where
16:14:33 32 she's speaking too much shit now." Mr Fox agreed with that
16:14:43 33 but states that, "That should be two months" and that if we
16:14:50 34 go over the page, "It was extremely draining and for the
16:14:53 35 sake of family life do not want her again. However, with
16:14:58 36 an electronic diary perhaps it is more manageable". Is
16:15:02 37 that your understanding at that stage of Ms Gobbo as a
16:15:10 38 human source?---I think that's fair, yes. I would agree
16:15:13 39 with that.
16:15:14 40
16:15:16 41 Can I ask you this: do you think it would have been useful
16:15:20 42 to put into train a situation whereby the amount of
16:15:24 43 information flow was limited?---It's hard to put a cap back
16:15:32 44 on the bottle I think is probably the best way to describe
16:15:36 45 it.
16:15:36 46
16:15:37 47 That's already tendered, Commissioner.

16:15:40 1
16:15:41 2 COMMISSIONER: Yes, Exhibit 396.
16:15:43 3
16:15:50 4 MR WINNEKE: Can I ask you to look at - just excuse me -
16:16:06 5 VPL.6159.0063.4168 and if we go to 4170. There was a time,
16:16:27 6 was there, when the information that was recorded on the
16:16:32 7 computer system at the SDU was being transferred on to
16:16:36 8 Interpose, do you recall that?---Yes, I do.
16:16:38 9
16:16:41 10 And it seems that on 22 December - sorry, wait on. There's
16:16:56 11 a list of outstanding files and with respect to Ms Gobbo
16:17:09 12 the last source contact report, no.12, end contact date
16:17:15 13 being the 6th of the 4th 2008. Do you see that?---Yes, the
16:17:24 14 two numbers.
16:17:25 15
16:17:26 16 The first one is 3838?---Yep.
16:17:28 17
16:17:28 18 We've got up to SCR 89 and then there was a number missing,
16:17:33 19 number 7, 42, 43, 44, 55 to 61. 72, 78 to 88, then with
16:17:42 20 respect to her new number there was - the last one had been
16:17:46 21 the 6th of the 4th 2008?---Yes, I see that.
16:17:50 22
16:17:53 23 Are you able to explain how that or what those
16:17:57 24 communications were about?---Not sure. I could assume is
16:18:03 25 it someone checking Interpose to see if all the files had
16:18:07 26 been transferred over to Interpose?
16:18:09 27
16:18:09 28 Right?---That appears what it is, so therefore people would
16:18:12 29 have to search the previous computer to put the missing one
16:18:16 30 back on Interpose.
16:18:16 31
16:18:17 32 Would that mean that the HSMU didn't have those
16:18:23 33 files?---I'm not sure. As I say, it depends whether it's a
16:18:27 34 transference from the old system to the new system and that
16:18:31 35 it's still pushing through, which would make sense
16:18:34 36 considering what the other contacts looked like.
16:18:36 37
16:18:37 38 Yes?---So I would say it's just the process of changing
16:18:40 39 over between systems.
16:18:41 40
16:18:42 41 Right. Perhaps if we can just go to the top of that email
16:18:48 42 chain so we can see exactly who is - if we move to 4168.
16:18:55 43
16:18:55 44 MR HOLT: There's no reason for this not to be up, it was
16:18:59 45 the only last one.
16:19:01 46
16:19:01 47 COMMISSIONER: Should we know who the emails were from and

16:19:05 1 to? It may be that pseudonyms can be used, I don't know.
16:19:11 2 They're completely blacked out.
16:19:18 3
16:19:18 4 WITNESS: Yes, that makes sense.
16:19:21 5
16:19:22 6 MR WINNEKE: Do you have your electronic diary there?---No,
16:19:25 7 that makes sense. I'm not part of that chain but it does
16:19:30 8 make sense in relation to HMSU and ensuring that all files
16:19:35 9 have been uploaded to Interpose from the previous system
16:19:37 10 that we utilised.
16:19:39 11
16:19:40 12 COMMISSIONER: So it's from HSMU to - - -
16:19:44 13
16:19:45 14 MR WINNEKE: I'll tender that, Commissioner, and in due
16:19:47 15 course I'll be able to indicate who the sender and the
16:19:51 16 recipients are but I believe that Mr Richards is a
16:19:56 17 recipient.
16:19:57 18
16:19:59 19 #EXHIBIT RC597A - (Confidential) Email chain 16 and
16:20:01 20 22/12/08 re SDU files.
16:20:13 21
16:20:15 22 #EXHIBIT RC597B - (Redacted version.)
16:20:21 23
16:20:23 24 The 22 December one is from Sandy White and it's to
16:20:26 25 Mr Richards.
16:20:30 26
16:20:30 27 COMMISSIONER: Thanks.
16:20:42 28
16:20:43 29 MR WINNEKE: I've got an unredacted version of that,
16:20:46 30 Commissioner, also so we can tender the unredacted version.
16:20:53 31 The recipient of the first email.
16:21:04 32
16:21:05 33 COMMISSIONER: We'll have an unredacted and a redacted
16:21:12 34 version A and B.
16:21:14 35
16:21:16 36 MR WINNEKE: The other redacted version is 6025.0012.1433
16:21:20 37 and the email of 16 December is from Ms Lane to Mr Black
16:21:27 38 and Sandy White, it's then passed on from Sandy White to
16:21:32 39 you, Mr Richards, on 22 December 2008?---Okay.
16:21:39 40
16:21:43 41 Ms Lane is a pseudonym. You may or may not have a list
16:21:48 42 with her name on it?---I know who that is, yes.
16:21:52 43
16:21:52 44 You do?---I'm making a presumption from the email chain and
16:21:57 45 the context.
16:21:58 46
16:21:59 47 Then, just again in that vein, it seems, if we can have a

16:22:06 1 look at this email chain, VPL.6050.0027.9343. If we can go
16:22:21 2 to the bottom of that chain. It seems to be an email from
16:22:26 3 Mr Biggin to Messrs White and Black and CCing Mr Glow who
16:22:36 4 was the officer-in-charge, is that right?---Yes, that's
16:22:40 5 correct.
16:22:40 6
16:22:40 7 And he says, "Good afternoon gents. In preparation for our
16:22:45 8 1 Feb Interpose kick off can I confirm the accuracy of my
16:22:52 9 records regarding human sources please". This is
16:22:55 10 Superintendent Biggin and he has a record of [REDACTED] active
16:23:00 11 human sources and he's aware that Ms Gobbo is off or about
16:23:03 12 to come off, do you see that?---Yes, I do.
16:23:05 13
16:23:06 14 In fact she had come off at that stage. And then the next
16:23:09 15 email is from Mr White?---Yes.
16:23:17 16
16:23:17 17 To Mr Biggin, CCing yourself and Mr Black and at that stage
16:23:25 18 he's passing on information back to Mr Biggin that in fact
16:23:29 19 at that stage there were only seven active sources, do you
16:23:32 20 see that?---Yes, I see that.
16:23:33 21
16:23:33 22 The Superintendent in charge is of the view that there are
16:23:36 23 [REDACTED] active sources, according to his records, but the actual
16:23:39 24 state of play is that there are only [REDACTED] active sources
16:23:44 25 at that stage?---Yes.
16:23:45 26
16:23:51 27 And if we move up the email chain there's an email from
16:24:01 28 Mr Biggin?---Yes.
16:24:01 29
16:24:02 30 To Ms Lane again and he says, "Good morning, I'm preparing
16:24:06 31 a migration to Interpose". In effect needs to get his
16:24:10 32 records updated firstly and then he passes on that
16:24:12 33 information to the HSMU, do you see that?---Yes.
16:24:15 34
16:24:19 35 That obviously indicates that the Superintendent has a
16:24:24 36 fairly inaccurate view of a number of active sources,
16:24:27 37 doesn't it?---I would say yeah, that change over from
16:24:33 38 Interpose to the (indistinct), yes.
16:24:36 39
16:24:36 40 That's regardless of change over. He has a record of [REDACTED]
16:24:40 41 active sources when in fact there are only [REDACTED]?---Yes,
16:24:44 42 from that chain, I agree.
16:24:46 43
16:24:47 44 And that might be regarded as unsatisfactory, would you
16:24:50 45 agree with that?---Yes.
16:24:52 46
16:24:58 47 Can I ask you about an entry on - - -

16:25:09 1
16:25:09 2 COMMISSIONER: Do you want to tender that one?
16:25:11 3
16:25:11 4 MR WINNEKE: Yes, I tender that, Commissioner.
16:25:13 5
16:25:13 6 COMMISSIONER: What was the date of the response?
16:25:13 7
16:25:35 8 MR WINNEKE: If we go to the bottom the first one is from
16:25:38 9 Mr Biggin on 29 January, the response is on 29 January and
16:25:42 10 then it's forwarded on - - -
16:25:45 11
16:25:46 12 #EXHIBIT RC598A - (Confidential) Email chain concerning
16:25:48 13 human sources commencing on 29/1 and finishing on 7/2.
16:25:57 14
16:25:57 15 #EXHIBIT RC598B - (Redacted version.)
16:25:57 16
16:26:22 17 In about May of 2010 there were communications, I suggest,
16:26:31 18 between you and Mr O'Connor who had just come online as the
16:26:38 19 officer-in-charge of the SDU, do you accept that?
16:26:43 20 Mr O'Connor says he commenced, I think I put to you before,
16:26:47 21 on 3 May 2010?---Okay.
16:26:50 22
16:26:54 23 A request had been made by Commissioner Overland for a
16:27:03 24 document to be put together setting out a chronology
16:27:09 25 detailing the SDU's dealings with Ms Gobbo up to the point
16:27:14 26 her management was taken over by Petra Task Force. Do you
16:27:18 27 recall that?---I don't, but - - -
16:27:23 28
16:27:23 29 This was for the purposes of civil litigation?---Right,
16:27:27 30 okay.
16:27:28 31
16:27:28 32 You understand that Ms Gobbo was suing the State of
16:27:31 33 Victoria?---Yes.
16:27:31 34
16:27:32 35 And Mr Overland and Ms Nixon?---I'm not sure of the details
16:27:36 36 of it. I know she was suing the Department, yes.
16:27:39 37
16:27:39 38 You ultimately, the SDU had to put together a very lengthy
16:27:43 39 document which set out by way of chronology the SDU's
16:27:48 40 dealings with Ms Gobbo?---Yes.
16:27:49 41
16:27:49 42 Were you involved in the preparation of that
16:27:51 43 document?---No, I don't believe so. I don't recall having
16:27:55 44 anything to do with it to be honest.
16:27:57 45
16:27:57 46 I wonder if you could have a look at this email,
16:28:02 47 VPL.0005.0013.1200. You'll see here that Mr O'Connor

16:28:12 1 speaks to Paul Sheridan who was his superior, is that
16:28:16 2 correct?---Yes, that's correct.
16:28:18 3
16:28:18 4 And he says that, "He's spoken to both you and to Mr White
16:28:27 5 about the request for the document and that Mr White in
16:28:32 6 particular is quite concerned regarding the consequences of
16:28:34 7 a chronology of events, meetings, et cetera, making its way
16:28:39 8 into legal/solicitors hands (within the organisation and
16:28:42 9 outside) and the risk it may or will pose to the unit as
16:28:48 10 well as to the witness, human source. I have informed him
16:28:51 11 and you", that is Mr Richards, "That I will read the
16:28:56 12 chronology, 250 pages plus, over a 3.5 year period and then
16:29:02 13 talk to you about it. I think it would be good that once I
16:29:06 14 have read it and briefed you that if you do not mind come
16:29:09 15 out to the unit and talk through the risks/concerns of both
16:29:15 16 of them. In its present form a chronology, it would pose
16:29:21 17 some significant risks". Do you see that, the reference to
16:29:24 18 the risks to the unit?---Yes, I see that email, yes.
16:29:28 19
16:29:29 20 Do you understand that the risks to the unit would be the
16:29:32 21 risks that would arise if this document, the chronology,
16:29:36 22 finds its way into lawyer's hands, whether it be within or
16:29:40 23 without the organisation?---That's a fair assumption, yes.
16:29:44 24
16:29:44 25 Do you know what that chronology, the 250 page chronology,
16:29:49 26 is?---That would be the SML, the source management log.
16:29:53 27
16:29:54 28 The source management log, both the 3838 and the 2958
16:30:00 29 one?---Yes.
16:30:01 30
16:30:11 31 Did you have a discussion with Mr White about the problems
16:30:15 32 that might arise if the lawyers came into possession of
16:30:18 33 that document?---I can't remember the conversation but I
16:30:23 34 would have, yes.
16:30:24 35
16:30:31 36 If we go down that email chain you can see there that there
16:30:37 37 is an email from Mr Pope to Mr Sheridan, CCing Mr Biggin,
16:30:45 38 tasking for the Chief Commissioner. "Paul, I had the
16:30:49 39 following request from Simon yesterday". That being Simon
16:30:51 40 Overland. "Can you please have the SDU compile a
16:30:54 41 chronology detailing all of our dealings with F that
16:30:59 42 finishes with our handover". Do you say that the
16:31:03 43 compilation is simply the source management log or it was a
16:31:07 44 document put together for the purpose?---I would have
16:31:09 45 thought it's the source management log, that would make
16:31:13 46 sense.
16:31:13 47

16:31:13 1 I tender that document, Commissioner.
16:31:18 2
16:31:21 3 #EXHIBIT RC599 - Email chain involving John O'Connor, Paul.
16:31:27 4 Sheridan, Jeff Pope on 4/05/10.
16:31:50 5
16:31:50 6 COMMISSIONER: How are we going?
16:31:52 7
16:31:53 8 MR WINNEKE: I'm not going to finish in the next 10 minutes
16:31:56 9 that's for sure.
16:31:56 10
16:31:57 11 COMMISSIONER: I imagine there will be some
16:31:58 12 cross-examination. Mr Richards, you're availability, just
16:32:04 13 remind me again?---Tomorrow, yes, Commissioner.
16:32:08 14
16:32:08 15 You're available tomorrow?---Yes.
16:32:09 16
16:32:10 17 What sort of time frames are we looking at for
16:32:12 18 cross-examination, anything from you, Mr Nathwani?
16:32:14 19
16:32:14 20 MR NATHWANI: About 15 minutes.
16:32:15 21
16:32:17 22 MR HOLT: Similar Commissioner, 15, 20 minutes.
16:32:19 23
16:32:20 24 MR CHETTLE: I doubt I'll be that long.
16:32:21 25
16:32:21 26 COMMISSIONER: Okay. We'll adjourn until 9.30 tomorrow.
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16:32:25 28 <(THE WITNESS WITHDREW)
16:32:28 29
16:32:28 30 ADJOURNED UNTIL TUESDAY 22 OCTOBER 2019
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