

ROYAL COMMISSION INTO THE MANAGEMENT
OF POLICE INFORMANTS

Held in Melbourne, Victoria

On Thursday, 1 August 2019

Led by Commissioner: The Honourable Margaret McMurdo AC

Also Present

Counsel Assisting:	Mr C. Winneke QC Mr A. Woods Ms M. Tittensor Mr M. Allen
Counsel for Victoria Police	Mr S. Holt QC Ms R. Enbom Ms K. Argiropoulos
Counsel for State of Victoria	Mr C. McCudden
Counsel for Nicola Gobbo	Mr P. Collinson QC Mr R. Nathwani
Counsel for DPP/SPP	Mr P. Doyle
Counsel for CDPP	Ms C. Fitzgerald
Counsel for Police Handlers	Mr G. Chettle Ms L. Thies
Counsel for John Higgs	Ms C. Dwyer
Counsel for Farouk Orman	Mr M. Koh
Counsel for Pasquale Barbaro	Mr C. Wareham

01:30:08 1 COMMISSIONER: Yes, I note the appearances are as per
01:30:11 2 yesterday, except that Ms McCudden is now appearing for the
01:30:15 3 State of Victoria.
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01:30:17 5 MS McCUDDEN: Thank you, Commissioner.
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01:30:17 7 COMMISSIONER: Yes. Mr Holt.
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01:30:19 9 MR HOLT: Commissioner, can I just address two matters
01:30:21 10 briefly. The first is the matters that the Commissioner
01:30:23 11 raised yesterday morning. Can I indicate that significant
01:30:27 12 efforts have been made yesterday, and yesterday evening in
01:30:30 13 particular, to provide the Commission with a comprehensive
01:30:33 14 answer to the proper questions that were asked. I expect
01:30:35 15 to be a position to do that in a thorough way to the
01:30:41 16 Commissioner tomorrow morning if that's acceptable to the
01:30:45 17 Commission.
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01:30:46 19 The second issue relates to the issues that were
01:30:48 20 raised yesterday about the ICRs and the Loricated database.
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01:30:50 22 COMMISSIONER: Yes.
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01:30:52 24 MR HOLT: At the risk of being seen to give evidence from
01:30:54 25 the Bar table, I think if the Commissioner pleases there
01:30:58 26 may be a value in simply setting out what those ICRs are so
01:31:01 27 that there's some consistency in the way that matters are
01:31:04 28 approached. The Loricated database which the Commission
01:31:08 29 has is a reconstruction of the original SDU material, it's
01:31:13 30 essentially an index, commissioner, that links original and
01:31:14 31 electronic SDU documents in relation to the management of
01:31:18 32 Ms Gobbo. What happened when the Loricated - - -
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01:31:21 34 COMMISSIONER: I'm just wondering if the witness should be
01:31:23 35 present for this.
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01:31:25 37 MR HOLT: No difficulty, I'm in the Commission's hands for
01:31:27 38 this.
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01:31:27 40 COMMISSIONER: Would it be of assistance to him to
01:31:29 41 understand what Victoria Police's position is, Mr Chettle?
01:31:32 42
01:31:33 43 MR CHETTLE: I think he's pretty much aware of it,
01:31:35 44 Commissioner.
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01:31:36 46 COMMISSIONER: All right then. Sorry to interrupt,
01:31:38 47 Mr Holt.

01:31:38 1
01:31:39 2 MR HOLT: Not at all. Thank you, Commissioner. What
01:31:41 3 occurred when the Loricated project team was looking to
01:31:44 4 reconstruct the file in relation to Ms Gobbo in relation to
01:31:47 5 ICRs was that there was located a folder containing hard
01:31:51 6 copy printouts of ICRs. The process was that electronic
01:31:57 7 Word versions of ICRs were created by SDU members, those
01:32:01 8 are the ones that the Commissioner has seen yesterday.
01:32:04 9 They would then be printed and the expectation was they
01:32:07 10 would be signed. Some of them were signed and some of them
01:32:09 11 weren't, as was noted yesterday. There was a folder of
01:32:12 12 those original ICRs, what we'll call the original ICRs. At
01:32:15 13 the same time when Loricated was being put together a
01:32:19 14 separate search was conducted over those hard drives for
01:32:22 15 electronic copies of the ICRs, that is the original Word
01:32:27 16 document which was then printed, later printed for the
01:32:28 17 purposes of being signed and being put into the folder.

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01:32:31 19 Both of those sets of ICRs were found and both of
01:32:36 20 those sets of ICRs are on the Loricated database, so both
01:32:40 21 of those sets of ICRs have been produced to the
01:32:43 22 Commissioner in two forms, firstly, within the Loricated
01:32:48 23 database which has been provided to the Commission, as the
01:32:51 24 Commissioner knows, on stand alone laptops. And then,
01:32:54 25 secondly, when there was production of the content of the
01:32:57 26 Loricated database in native form. So both those two sets
01:33:01 27 of documents were produced.

01:33:05 28
01:33:09 29 For the purposes of - I should interpose there, the
01:33:14 30 folders which have been produced just for the ease of
01:33:17 31 reference during the course of the Commission are the
01:33:20 32 printouts of the electronic versions of those ICRs, not of
01:33:24 33 the final copies that were signed. That was simply for
01:33:27 34 ease of reading, in effect. Those are all in the
01:33:30 35 possession of the Commission with VPL numbers and I've
01:33:33 36 spoken to our learned friends about that.

01:33:35 37
01:33:35 38 COMMISSIONER: So I have them produced in three volumes.
01:33:40 39 I've got volume 1 of 2 and volume 2 of 2 and then volume 1
01:33:44 40 of 1. Is there any difference in - - -

01:33:46 41
01:33:47 42 MR HOLT: Yes. So the difference there, Commissioner, is
01:33:50 43 that the two volumes relate to the informer number 3838 and
01:33:54 44 the one volume relates to the other informer number that
01:33:56 45 was used. That's the only distinction between the folder
01:33:58 46 numbers.

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01:33:59 1 COMMISSIONER: I see. Right.
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01:34:00 3 MR HOLT: Can I then attempt to explain the situation in
01:34:02 4 respect to the summary.
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01:34:04 6 COMMISSIONER: To just clarify this then, you say what I've
01:34:06 7 been provided with is the electronic version of what was
01:34:17 8 created electronically contemporaneously?
01:34:23 9
01:34:24 10 MR HOLT: Yes.
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01:34:24 12 COMMISSIONER: Yes, so it's not a reconstruction?
01:34:27 13
01:34:27 14 MR HOLT: Subject to one matter which I'll take the
01:34:29 15 Commissioner to now, which is the reason for the change in
01:34:31 16 numbers which was noted yesterday. The project team
01:34:33 17 identified that those ICRs in the original folder, so the
01:34:37 18 PDF ICRs, went from number 45 to 46, but did not include an
01:34:44 19 ICR that covered the period of 16 September 2006 to 27
01:34:48 20 September 2006. The project team at that stage searched
01:34:53 21 the SDU hard drive in order to try and find an electronic
01:34:59 22 version that would cover that period, because it was
01:35:01 23 obviously a missing period, and they were unable to do so.
01:35:05 24 What they then did, and I should say, Commissioner, this is
01:35:08 25 explained to the Loricated closure report which is produced
01:35:10 26 to the Commission to some extent but perhaps not with this
01:35:13 27 clarity. The project team then searched SDU member's
01:35:17 28 diaries and located several contacts with Ms Gobbo by
01:35:21 29 Mr Peter Smith, pseudonym, for that period, that is the
01:35:24 30 period 16 September to 27 September, and as is explained in
01:35:29 31 the Loricated disclosure report, an ICR was then recreated
01:35:33 32 by the project team utilising the content of Mr Peter
01:35:36 33 Smith's diary to ensure that as far as was possible all
01:35:40 34 contacts were recorded in the Loricated database.
01:35:42 35
01:35:43 36 That recreated ICR was numbered as ICR 46 and loaded
01:35:48 37 on to the database on that basis. Once it was loaded on to
01:35:53 38 the Loricated database the numbering system to record the
01:35:58 39 ICRs numbers in that database was subsequently one number
01:36:01 40 out in all of the subsequent ICRs, which is why,
01:36:04 41 Commissioner, you see that change. What that means in
01:36:07 42 effect is that number 47 in the Loricated database is
01:36:09 43 actually the original 46 but the Commission has, and has
01:36:12 44 had for a long time, both versions.
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01:36:14 46 COMMISSIONER: What about 45, you mentioned to 45 to 46?
01:36:17 47 Is there a 45?

01:36:19 1
01:36:19 2 MR HOLT: There is now. Might I explain that position,
01:36:21 3 Commissioner. What's been identified in terms of why that
01:36:25 4 gap was in place and why therefore the ICR needed to be
01:36:29 5 recreated is this, and we think this is consistent with
01:36:33 6 what Mr Chettle was saying yesterday about this position.
01:36:36 7 Mr Green created an ICR 45 that covered the period of 9
01:36:40 8 September 2006 to 15 September 2006. It appears that that
01:36:45 9 was not saved by Mr Green at the time - one expects sort of
01:36:52 10 an inadvertent error that all of us make - to the SDU hard
01:36:57 11 drive and the appropriate location as required.
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01:36:59 13 COMMISSIONER: Are we saying it wasn't saved
01:37:01 14 contemporaneously back in 2006?
01:37:03 15
01:37:03 16 MR HOLT: Yes.
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01:37:04 18 COMMISSIONER: Right.
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01:37:05 20 MR HOLT: In the place where it would have been expected to
01:37:07 21 be saved. Mr Peter Smith then created an ICR quite
01:37:12 22 properly that covered the period 16 September 2006 to 27
01:37:16 23 September 2006 and saved that on to the SDU hard drive.
01:37:20 24 That was of course then allocated the number 45.
01:37:26 25 Later - - -
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01:37:27 27 COMMISSIONER: That was done contemporaneously again?
01:37:30 28
01:37:30 29 MR HOLT: Yes, as it should have been. But later Mr Green,
01:37:33 30 having registered presumably that he hadn't saved his ICR
01:37:36 31 on to the SDU hard drive at that time, did so and that
01:37:41 32 overwrote the file that had already been saved under that
01:37:44 33 ICR number by Mr Peter Smith. There was then - effectively
01:37:49 34 the one that had not originally been saved properly became
01:37:53 35 the one that was there and the other one was overwritten.
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01:37:56 37 COMMISSIONER: When was it saved?
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01:37:57 39 MR HOLT: 3 January 2007, Commissioner. That overwriting
01:38:03 40 explains why the project team could not locate an ICR for
01:38:06 41 the period 16 September 2006 to 27 September 2006, not
01:38:12 42 because there was ever an ICR that had not been created,
01:38:18 43 but because of the overwriting which had occurred.
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01:38:21 45 Yesterday, as a result of activity that happened
01:38:26 46 because of what was raised in the Commission and with the
01:38:31 47 direct and enormous assistance of one of Mr Chettle's

01:38:35 1 clients, an electronic copy of the ICR that had been
01:38:38 2 overwritten was able to be located in a drive on the old
01:38:41 3 SDU hard drive and that copy has either already been
01:38:46 4 produced or is in the process of being produced to the
01:38:49 5 Commission today and I advise our learned friends of that.
01:38:51 6 I'm not sure whether it's already occurred.

01:38:53 8 COMMISSIONER: That is Mr Smith's original ICR?

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01:38:56 10 MR HOLT: Yes. So the good news is that gives us, at least
01:39:00 11 in the electronic sense, a complete record of the ICRs that
01:39:04 12 were created. I should say, Commissioner, the folders that
01:39:08 13 were created coming from the electronic, as being the
01:39:13 14 electronic records, were created for the purposes of ease
01:39:16 15 of reference in the hearing. They weren't intended to be a
01:39:20 16 representation that they were the only documents. Indeed,
01:39:22 17 I don't think that's ever been understood by those
01:39:24 18 assisting the Commissioner. Those signed or hard copy
01:39:29 19 versions have always existed on the Loricated database and
01:39:33 20 been provided in native form.

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01:39:35 22 I thought it appropriate to put that explanation on
01:39:37 23 the record, Commissioner, so it's clear (a) for Mr Chettle
01:39:40 24 and the Commission, and in case there are any - it's a
01:39:43 25 complicated issue, it's taken us a little while to unknot.
01:39:47 26 If there are any queries about it then plainly we're happy
27 to work through those with the Commission to ensure that
28 proper information is received and we'll work with your
01:39:52 29 staff perhaps, Commissioner, to identify whether there
01:39:54 30 would be a more convenient form in which the documents
01:39:56 31 might be available for the purposes of the remainder of
01:39:58 32 this block of hearings. But we certainly will need to add
01:40:02 33 that ICR that's now been located in for ease of reference.

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01:40:06 35 COMMISSIONER: But the cross-examination about the ICRs
01:40:07 36 yesterday, I didn't think related to these ICRs, 45 or 46.

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01:40:14 38 MR HOLT: No. No, it didn't. It related to other issues.
01:40:16 39 But that was one of the queries that Mr Chettle raised. In
01:40:19 40 fact the change in numbers because of the situation that
01:40:21 41 I've outlined is, we expect, the reason why the metadata in
01:40:26 42 those documents refers to the time of the Loricated
01:40:28 43 project. Because they were in fact altered, but altered in
01:40:32 44 a way that was just a change of sequential numbering. The
01:40:36 45 content as we understand it, and I've been able to do some
01:40:37 46 review overnight, I don't think there's any dispute as
01:40:41 47 between us, is identical between them.

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COMMISSIONER: When the witness said they weren't his documents, they should have been his documents.

MR HOLT: To be fair, Commissioner, I don't think the witness said that, I think that was Mr Chettle's submission and I think there's some subtlety in what that means. It's not the document that was printed out and signed, it's an electronic version of that document that was a Word version. Both sets are available I think is the submission, is the point that we make. I'm sorry for the convoluted, Commissioner, but I thought it appropriate to try and make things as clear as we could.

COMMISSIONER: Thank you. Yes, Mr Winneke.

MR WINNEKE: Commissioner, I must say I appreciate that, and whilst I don't want Mr Holt to get into the witness box, I do want to clarify a couple of matters and he might be able to do so from his comfortable position where he is there. One of the issues that has been raised relates to the, in effect, sanctioning or signing off on an ICR by a controller. So, for example, questions were asked about whether or not an ICR was ratified or signed by Mr White and how long it was before he did so and you'll recall there were some issues about months, 12 months, more than 12 months, et cetera, et cetera.

COMMISSIONER: Yes.

MR WINNEKE: Can I take it that, for example, if one looks at any of these ICRs where there is a name and a date against the handler's name and a name and a date against the controller's name, that indicates that, insofar as the handler is concerned, the date that it was submitted is the date in the document and the date that the controller ratified it is the date on which - or which is recorded in the document. If that's the case I think that should be stated.

MR HOLT: Commissioner, not only would I be giving evidence but I'd be giving evidence on behalf of Mr Chettle's clients, which I don't think I can do. All I can properly say about that question is that the data which is recorded in those electronic versions appears, as to dates and where they sit, appears to be the same as the data in the PDFs which are printed out and signed. How that data was

01:43:07 1 entered and what it means is probably an answer that only
01:43:10 2 the handlers can give and they would need to be asked about
01:43:13 3 it I would expect, Commissioner, because I can't go further
01:43:15 4 than simply saying that's what the data says. That's a
01:43:18 5 logical inference, of course, but I certainly can't say
01:43:20 6 that to you as a matter of evidence.

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01:43:24 8 MR WINNEKE: Certainly what is not in the folders that have
01:43:27 9 been provided conveniently are documents with signatures on
01:43:31 10 them. Again, it may well be Mr Chettle can answer this.
01:43:35 11 Perhaps he can get in the witness box. Are there original
01:43:39 12 documents with handwritten signatures in them?

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01:43:43 14 MR HOLT: Yes, and they've been produced, Commissioner,
01:43:47 15 that's the point I was - - -

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01:43:47 17 COMMISSIONER: They are on the Loricated database.

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01:43:49 19 MR HOLT: They are already on Loricated and they've also
01:43:51 20 been provided in native form in that later tranche of
01:43:55 21 disclosure and we can provide the VPL numbers to our
01:43:56 22 friends. That will probably be the best way to do it. The
01:43:57 23 alternative, it will take a little time, is we can work
01:44:01 24 through that in the same way that we did with the
01:44:03 25 electronics to try and have a set of those but they are
01:44:04 26 within the possession of the Commission. We will assist in
01:44:08 27 any way we can to make them available. Whatever needs to be
01:44:12 28 done we'll and do it but they are available to the
01:44:13 29 Commission.

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01:44:15 31 MR WINNEKE: Thank you.

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01:44:15 33 COMMISSIONER: Thank you. We should be able to find the
01:44:17 34 documents that these electronic ICRs were based on that you
01:44:23 35 cross-examined the witness about yesterday?

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01:44:26 37 MR WINNEKE: I assume so. I assume so. Now, Mr Chettle
01:44:32 38 was suggesting yesterday that documents, for example, where
01:44:36 39 there are no signatures and no names does not suggest that
01:44:40 40 the handler, sorry, that the controller did not see and
01:44:45 41 ratify the document. One assumes if that's the case then
01:44:48 42 there will be, and I don't want to be unfair to the
01:44:51 43 witness. There will be actual PDF documents of those ones
01:44:55 44 which do contain signatures and dates on them. If that's
01:44:59 45 the case that should be made clear because I don't want a
01:45:02 46 misleading interpretation to be given of the evidence.

01:45:02 47

01:45:06 1 COMMISSIONER: Yes.
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01:45:08 3 MR WINNEKE: I wonder if we could - well, if it can be
01:45:17 4 dealt with, for example, whilst I'm going or briefly we can
01:45:20 5 stand down to make sure that we can, for example, find one.
01:45:24 6 Or Mr Chettle might be able to answer this question.
01:45:26 7
01:45:27 8 MR CHETTLE: Commissioner, the point - the answer is there
01:45:30 9 in what Mr Holt's told you this morning. A lot of this
01:45:33 10 computer stuff is beyond me, I apologise. I understand
01:45:36 11 from my client Mr Black that this has been - and he's the
01:45:39 12 one that was referred to as working through this. What you
01:45:42 13 got is what was in the hard drive before they were printed
01:45:46 14 off and checked by the controller. So you wouldn't expect
01:45:50 15 - they all relate to the one handler, Mr Fox. They are all
01:45:57 16 his. None of them have been checked off or have anything
01:46:01 17 typed or signed on them because they are the ones that were
01:46:04 18 prepared and put on the hard drive before they were ever
01:46:07 19 viewed by the controller. Now we understand that they have
01:46:11 20 been checked. The only reason I raised this yesterday was
01:46:13 21 Mr Winneke's cross-examination was about lack of
01:46:16 22 supervision of the handlers by the controllers and that was
01:46:21 23 the inference that he sought to draw from the fact that
01:46:24 24 there was no signature of - - -
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01:46:26 26 COMMISSIONER: You're saying we should be looking at the
01:46:30 27 copies of the signed original ICRs.
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01:46:34 29 MR CHETTLE: Wherever they are.
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01:46:35 31 COMMISSIONER: They're on Loricated we're told.
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01:46:38 33 MR CHETTLE: Apparently. That's what you've been told. I
01:46:41 34 can tell you, Commissioner, I've not seen them. That
01:46:44 35 doesn't mean they're not there. The trouble with this from
01:46:46 36 the Bar table, there will be evidence from one of my
01:46:49 37 clients when he gives evidence. It's consistent with what
01:46:52 38 I understand Mr Holt said. All that matters for the
01:46:57 39 purposes of Mr Winneke's cross-examination is you cannot
01:46:59 40 infer from the documents that you're actually looking at,
01:47:02 41 which are print offs of the original draft document, that
01:47:06 42 they weren't checked. That's as far as it goes. That's
01:47:08 43 what was sought to be done yesterday and that's what led me
01:47:11 44 to say these aren't that. I got instructions that these
01:47:15 45 aren't that. It's just - it makes sense, if one thinks of
01:47:20 46 what Mr Holt says, that the handler types up an ICR, it's
01:47:25 47 then printed and provided to the controller to look at.

01:47:29 1 What you've got is the document that occurs at the first
01:47:32 2 stage before it gets sent to the handler - before it gets
01:47:37 3 sent to the controller. That, as I understand it, is the
01:47:39 4 position. Now, in the absence of evidence we can't do much
01:47:43 5 more. There are other indications, and I just simply to
01:47:47 6 refer to ICR 96, there's been some editing done to that ICR
01:47:52 7 that wasn't done by us. I don't want to go into details
01:47:56 8 but you'll see Solicitor 1's name has been removed from the
01:47:59 9 ICR and that wasn't done by us. But there's a number of
01:48:02 10 things that cause my clients concern about these documents,
01:48:05 11 but the predominant point I raised was simply to deal with
01:48:09 12 you can't assume that it wasn't checked because there's no
01:48:12 13 signature on the document you have. It's as simple as
01:48:15 14 that.

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01:48:16 16 COMMISSIONER: All right. Shouldn't we be working off the
01:48:19 17 better documents then, that is the signed version of the
01:48:22 18 documents, that we haven't been provided with? Or I
01:48:26 19 haven't been provided with. Isn't that the more accurate
01:48:29 20 version to work off?

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01:48:31 22 MR CHETTLE: What you got, Commissioner, is what we've been
01:48:34 23 working on since we got - we got copies of those three
01:48:38 24 volumes that you got.

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01:48:39 26 COMMISSIONER: I understand. But from what Mr Holt tells
01:48:41 27 me now the more accurate documents would be the ones that
01:48:44 28 were signed more or less contemporaneously.

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01:48:48 30 MR HOLT: Commissioner, can I indicate this: the three
01:48:53 31 volumes were prepared effectively at my request as a way of
01:48:58 32 ensuring that people could be following the same document
01:49:01 33 on a paginated basis. There was no meaningful decision to
01:49:04 34 be made about the content of those, just to ensure there
01:49:07 35 was easy reference for them. We have always proceeded on
01:49:09 36 the basis that because the material is very clearly
01:49:12 37 identified on Loricated as being a PDF version and an
01:49:16 38 electronic version, that everyone was aware that there was
01:49:20 39 an electronic version and a PDF version and both have been
01:49:23 40 produced. Each is useful for different purposes. What
01:49:27 41 appears now to be clear is that for these purposes what I
01:49:30 42 should have done is said the PDFs should have been printed
01:49:33 43 off. I should say the distinction isn't between signed and
01:49:36 44 not signed because a number of those PDFs that were in the
01:49:40 45 folder are in fact not signed, but they are the ones that
01:49:43 46 were printed out and put in the folder which was
01:49:46 47 essentially physically the record that was then held within

01:49:49 1 police of those matters. If what we need to do is to
01:49:52 2 provide a set of ones that are for ease of reference, which
01:49:55 3 are that other set, then we should do that.
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01:49:59 5 COMMISSIONER: I think that's probably right, don't you,
01:50:00 6 Mr Winneke?
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01:50:02 8 MR WINNEKE: Commissioner, if what's in the document is the
01:50:04 9 exact replication of what was in the original ones, it's
01:50:07 10 probably not necessary because people have been working
01:50:10 11 from these and done a considerable amount of work and mark
12 up - - -
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01:50:11 14 COMMISSIONER: Mr Chettle's challenging that.
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01:50:13 16 MR HOLT: That's the point.
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01:50:15 18 MR WINNEKE: There's perhaps an easier way of doing it and
01:50:17 19 that is if we accept that everything in the documents is
01:50:20 20 accurate and reflects what's in the originals, and that
01:50:24 21 seems to be the case.
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01:50:25 23 COMMISSIONER: Mr Chettle's challenging that.
01:50:27 24
01:50:27 25 MR CHETTLE: I'm sorry. I'm just not making myself clear.
01:50:30 26 The documents - we don't argue, and I've not made any
01:50:35 27 submission that the content of the ICRs that you've got
01:50:37 28 isn't the content that was written by the handlers.
01:50:40 29 There's no dispute about that. Why this is disputed is
01:50:42 30 Mr Winneke was making the point that there was no
01:50:45 31 supervision of the handlers by the controllers because
01:50:49 32 there was nothing in the boxes. That's because those
01:50:53 33 documents wouldn't have been - they're pre-checking by the
01:50:56 34 controller. These are ones that Loricated have printed off
01:51:00 35 the system before they got sent to the controller. That's
01:51:03 36 as simple as it is.
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01:51:07 38 COMMISSIONER: Will the original ICRs be a better of record
01:51:10 39 then of whether there was supervision?
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01:51:11 41 MR CHETTLE: Undoubtedly.
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01:51:12 43 COMMISSIONER: Then we need them, don't we?
44
01:51:15 45 MR WINNEKE: Commissioner, the point is this: as I
01:51:18 46 understand it a lot of the original ICRs don't contain
01:51:22 47 signatures in any event.

01:51:26 1
01:51:27 2 MR CHETTLE: Some do.
3
01:51:29 4 MR WINNEKE: Some do, a lot of them don't. For example, if
01:51:32 5 we had a table which simply said with respect to each of
01:51:35 6 the ICRs what is different between the electronic version
01:51:38 7 or the Loricated version and the original version, that
01:51:42 8 would be useful. But there's no point, in our submission,
01:51:46 9 starting again if all of the actual information is
01:51:50 10 accurate. But if what Mr Chettle says is right, that some
01:51:54 11 of the originals suggest that there is indications that
01:52:00 12 they had been checked, so be it. I might say, Mr White was
01:52:04 13 suggesting that this was one of the few things that
01:52:06 14 Mr Comrie got right, the fact that a lot of these things
01:52:09 15 were late, a lot of these things didn't have indications of
01:52:16 16 controller oversight. But obviously that may well be a
01:52:19 17 matter - - -
01:52:19 18
01:52:20 19 MR CHETTLE: Sorry, I can't let that go through. He didn't
01:52:23 20 agree to that.
21
01:52:25 22 COMMISSIONER: I thought he just agreed to lateness.
01:52:28 23
01:52:28 24 MR CHETTLE: He did not agree to the oversight and it's
01:52:30 25 just the oversight point that I'm making.
26
01:52:36 27 MR WINNEKE: What I'm suggesting is that there simply be a
01:52:38 28 table and this information set out in the table rather than
01:52:41 29 re-printing out all of these things, because if it's
01:52:43 30 accepted that the information within them is accurate, the
01:52:47 31 only thing that isn't accepted, as far as Mr Chettle is
01:52:50 32 concerned, is the names, et cetera, et cetera, in the
33 oversight box. That's as I understand it.
34
01:52:52 35 COMMISSIONER: The table is going to be pretty laborious to
01:52:56 36 prepare, isn't it?
37
01:52:58 38 MR WINNEKE: It's only 178 or however many it is.
01:53:04 39
01:53:05 40 MR HOLT: Commissioner, it's a very laborious job. I'm
01:53:11 41 looking at expressions on the faces of my instructors. I
42 It would be an enormously labour intensive job. Can I make
43 the suggestion, and I know that I'm the person who keeps
01:53:12 44 making this suggestion, I apologise in advance, but if it
01:53:13 45 were possible to have five minutes for this purpose only,
01:53:16 46 what we would like to do is to be able to check with those
01:53:20 47 assisting the Commission that there are available, with the

01:53:23 1 VPL numbers that we have, those originals on the system,
01:53:27 2 because if they are then the point of comparison can be
01:53:30 3 done pretty straightforwardly on any particular point. The
01:53:32 4 issue might be able to be explored relatively quickly to
5 see whether there's any difference that's of any meaningful
01:53:37 6 character or not before we embark on that kind of an
01:53:39 7 exercise. The other thing that we can do, if necessary,
01:53:42 8 there will be some time, but much less time than creating a
01:53:46 9 table, would be to make a physical copy available of those,
01:53:49 10 but that would still take a little time. I'm just nervous
01:53:54 11 in light of the responses from the other end of the Bar
01:53:57 12 table to make sure that - we're certain they're on
01:53:58 13 Loricated, because they are, there's a link to them. I
14 just want to make sure that we're on the same page as them
01:54:01 15 having been produced natively as well so that they have VPL
01:54:04 16 numbers that could be referred to instantly. Could I just
01:54:07 17 check that, Commissioner, I think it will shortcut matters?
18
01:54:10 19 COMMISSIONER: All right, we'll have a short adjournment
01:54:12 20 for that purpose.
21
22 (Short adjournment.)
23
02:10:14 24 MR WINNEKE: Thank you for that, Commissioner.
25
02:10:21 26 COMMISSIONER: Yes.
27
02:10:23 28 MR WINNEKE: We're ready to go.
29
02:10:24 30 COMMISSIONER: All right then. We'll have the witness.
02:10:30 31
02:10:33 32 <SANDY WHITE, recalled:
33
02:11:02 34 COMMISSIONER: Yes, good morning Mr White. We're ready to
02:11:07 35 resume. Can you hear me? No.
02:11:13 36
02:11:14 37 WITNESS: Are you there, Commissioner?
38
02:11:15 39 COMMISSIONER: Yes. Can you hear me?---Yes, I can.
40
02:11:18 41 Thank you. Yes, Mr Winneke.
42
02:11:21 43 MR WINNEKE: Thank you, Commissioner. Mr White, just
02:11:24 44 before we go back to your discussion with Ms Gobbo on 16
02:11:27 45 September 2005, I just want to ask you a couple of
02:11:31 46 questions about the processes with respect to ICRs.
02:11:35 47 Yesterday I was asking you questions about particular ICRs

02:11:38 1 and I think one of them did not contain your name in the
02:11:44 2 box at the end of the ICR which would, as a general
02:11:49 3 proposition, indicate that you had checked and oversighted
02:11:52 4 the content of the ICR, do you agree with that, that's what
02:11:55 5 I was asking you?---Yes.
6
02:11:59 7 It may or may not be the case that that document was the
02:12:04 8 original PDF copy of the document that you actually saw, do
02:12:11 9 you follow what I'm saying?---Yes.
10
02:12:15 11 Can I ask you this: can you tell the Commission the process
02:12:20 12 that you went through with respect to ICRs? Before we do
02:12:26 13 that, we understand that an ICR contains a series of
02:12:33 14 contacts between informers or human sources and the
02:12:38 15 handlers over, say, a week period; is that right?---Yes.
16
02:12:43 17 In an ideal world the intention was that at the end of that
02:12:47 18 week period the handler would prepare a document called an
02:12:52 19 ICR?---Yes.
20
02:12:55 21 Or a source contact report?---Yes.
22
02:12:58 23 I take it that the DSU/SDU set up a pro forma so as that
02:13:08 24 could be done; is that right?---Yes.
25
02:13:09 26 The pro forma more or less follows the form of the document
02:13:16 27 that we have and you've seen and we've all been looking at;
02:13:19 28 is that right?---Yes.
29
02:13:20 30 Can you tell the Commission the process whereby that
02:13:23 31 document or how that document comes to be created by the
02:13:28 32 handler?---Yes. As you said it's a pro forma document.
02:13:36 33 It's a Word, Microsoft Word document.
34
02:13:40 35 Yes?---As you said, it would cover a certain period which
02:13:49 36 about a week or 10 days, and the handler would, when they
02:13:54 37 had the opportunity they would sit down and obviously
02:13:58 38 detail each contact and nominate whether it was a phone or
02:14:06 39 face-to-face meeting.
40
02:14:08 41 All right. Can I stop you there?---Yes.
42
02:14:10 43 Let's say there's a telephone call that the handler has
02:14:12 44 with the informant, Ms Gobbo, in this case?---Yes.
45
02:14:14 46 I take it whilst having the telephone call the handler
02:14:18 47 would be writing handwritten notes, would that be the

02:14:22 1 case?---Usually, yes.
2
02:14:25 3 Or did some of them utilise the computer and type out notes
02:14:30 4 of the discussion?---It was a bit of both. Initially when
02:14:39 5 the SDU started we were using handwritten diaries and
02:14:46 6 handlers would usually make notes at the time, either in
02:14:51 7 their diary, handwritten diary, or on a day book, which was
02:14:56 8 just an exercise book basically.
9
02:14:58 10 Can I - - - ?---Yep.
11
02:15:00 12 Sorry, go on before I ask questions about that. Keep
02:15:02 13 going?---And then when they had the opportunity, as I said,
02:15:07 14 they would then put the detail of that into the source
02:15:10 15 contact report.
16
02:15:14 17 Right?---Then that contact - and I think you'll see from
02:15:20 18 the form itself it's headed with the date range over which
02:15:25 19 the contacts occurred.
20
02:15:27 21 Yes?---Then when they come to the end of the date range for
02:15:31 22 that contact report they would then - it would be saved on
02:15:38 23 to the computer system.
24
02:15:42 25 Yes?---And that would be placed into a directory for myself
02:15:50 26 as the controller and I would see that that member has some
02:15:54 27 reports in there waiting to be checked and then I would
02:15:58 28 subsequently read the report, date the day that I'm happy
02:16:05 29 for it to leave and put my name in that area in the bottom.
30
02:16:08 31 Okay?---And then - - -
32
02:16:09 33 Yeah, go on?---And then it would be - it would be saved on
02:16:18 34 to the SDU database but it would also be copied and hand
02:16:23 35 delivered to the Human Source Management Unit.
36
02:16:26 37 Right. Just before we move on, were there any instructions
02:16:34 38 to handlers about whether the notes that they took of -
02:16:40 39 that is the contemporaneous notes of original - sorry, of
02:16:43 40 discussions between themselves and Gobbo, were there
02:16:48 41 instructions given about what should happen to those
02:16:50 42 original notes, the handwritten notes, if they were
02:16:53 43 written, or the typed document if they were typed, what was
02:16:56 44 the situation with those?---No, there was no instructions
02:17:02 45 in relation to that.
46
02:17:03 47 Okay. So in far as - if they chose to record that

02:17:10 1 information in a diary, would that be an official police
02:17:14 2 diary?---It may. It may be an official police diary. It
02:17:19 3 might be, as I said, a day book, it might just be a scrap
02:17:23 4 of paper they had at the time. Bear in mind a lot of these
02:17:29 5 contacts occurred away from the office.
6
02:17:31 7 Yes?---I've known members to write short notes about
02:17:34 8 meetings on, you know, white paper napkins.
9
02:17:38 10 Just whatever came to hand?---Yes.
11
02:17:42 12 If that was the case then if it was recorded on a napkin or
02:17:49 13 whatever, the next time that that piece of information
02:17:54 14 would be recorded would be in the ICR; is that right?---It
02:18:03 15 would ultimately be recorded in the ICR. You might find
02:18:06 16 some members would have transcribed it into their diary.
17
02:18:14 18 Within the ICRs there are very many contacts. Is there a
02:18:22 19 separate document created for each of those contacts, a
02:18:27 20 contact report or an individual contact report created
02:18:33 21 electronically?---No.
22
02:18:43 23 We've heard at various stages that there was something like
02:18:46 24 5,000 contacts and as I understand it a lot of those
02:18:50 25 contacts were actually - were they given numbers, each of
02:18:56 26 those contacts?---No.
27
02:19:12 28 The original and best record of the communication between
02:19:19 29 the handler and the informer is what is directly written
02:19:27 30 down. Now that might be on a napkin or it might be, if
02:19:31 31 you're in the office, on a computer or it might be in a
02:19:34 32 diary or a day book, right?---The best account of a
02:19:41 33 conversation that was a phone contact.
34
02:19:48 35 Yes?---You would be right. If it was face-to-face - - -
36
02:19:54 37 Don't worry about that, you don't need to go into
02:19:57 38 that?---Thank you.
39
02:19:59 40 The next thing that occurs is that that contemporaneous
02:20:03 41 note, whether it be on the napkin or wherever it might be,
02:20:07 42 goes into the ICR when the handler has an opportunity to
02:20:13 43 sit down and type it out in the pro forma ICR document; is
02:20:19 44 that right?---That's right.
45
02:20:27 46 That document, it might be created all in the one go or
02:20:33 47 perhaps in the case of documents which run to 25, 30 pages,

02:20:38 1 that document might be created over a period of time, would
02:20:42 2 that be fair to say?---Yes, that would be fair to say.
02:20:49 3 Different handlers did it differently. You might find that
02:20:53 4 a handler used the contact report almost contemporaneously.
02:20:59 5 You might find that there's others that didn't do it until
02:21:02 6 the end of the period and then just went to their different
02:21:05 7 sets of notes and compiled the report.
8
02:21:10 9 Yes, okay. But in any event is the first opportunity -
02:21:16 10 perhaps I'll withdraw that. In some cases, and we
02:21:21 11 discussed this yesterday, there would be communication
02:21:23 12 between the controller and the handler about a particular
02:21:27 13 contact which had occurred, do you agree?---Yes.
14
02:21:31 15 And not every occasion?---No, not every occasion straight
02:21:39 16 after the contact.
17
02:21:40 18 Some of them as we go through them we can see after a
02:21:44 19 particular contact there'll be a reference to the fact that
02:21:47 20 Mr White was made known of a particular contact and it's
02:21:51 21 actually recorded against the particular contact in the
02:21:56 22 ICR. Now clearly that would be - we could be confident on
02:22:02 23 that occasion that that handler had told you about what had
02:22:05 24 occurred in the immediately preceding interaction between
02:22:14 25 the handler and the source?---Yes, often times I would get
02:22:16 26 a hot debrief.
27
02:22:19 28 Were there any instructions about when there should be
02:22:23 29 communications between you and the handler about the
02:22:25 30 particular event?---There was instructions in relation to
02:22:29 31 face-to-face meetings in that they had to be approved by
02:22:35 32 the controller before they could happen. I don't - - -
33
02:22:42 34 I follow that. What about just general communications
02:22:45 35 between Gobbo and the handler?---I'm sorry, you'd have to
02:22:51 36 look at the SOPs to see if there was a specific instruction
02:22:57 37 about phone calls.
38
02:22:58 39 All right. There were weren't any instructions - what you
02:23:01 40 say is that you didn't give the handlers any different
02:23:05 41 instructions than those which were set out in the SOPs you
02:23:09 42 were involved in producing and I assume the Chief
02:23:13 43 Commissioner's standing order which sets out the policy
02:23:15 44 with respect to informer management?---I don't believe so
02:23:18 45 but to be completely accurate obviously there would have
02:23:24 46 been occasions where the handlers might have told me they
02:23:29 47 were going to call a source and I would give tinstructions

02:23:31 1 about what I might have wanted covered or what action to
02:23:36 2 take.
3
02:23:36 4 Yes?---Or it may be they'd record a phone contact and I
02:23:40 5 might say to them something which would be a direction for
02:23:43 6 them to get back on to that individual and relay some
02:23:47 7 direction or instruction.
8
02:23:48 9 So if there were particularly critical events occurring at
02:23:52 10 a particular time and you wanted to give the handler
02:23:56 11 instructions or specific instructions, then that might be a
02:24:00 12 reason for you to contact the handler or vice versa, the
02:24:04 13 handler to contact you if he knew that there were
02:24:07 14 particular matters going on to get instructions and make
02:24:10 15 sure that everyone was working from the same book, if you
02:24:14 16 like?---Yes.
17
02:24:21 18 To come back to the documentary trail if we can, I know
02:24:26 19 this is a bit tedious but we've got to get this right, the
02:24:31 20 idea originally was that what should occur is that the
02:24:36 21 information contact report would be prepared and it would
02:24:45 22 cover about a week's period, hopefully no more than 10
02:24:50 23 days, but that's the general period of time that you would
02:24:53 24 want to have an ICR cover, would that be fair to
02:24:56 25 say?---Yes.
26
02:25:00 27 That would enable the controller, you, to have a degree or
02:25:08 28 a significant degree of oversight to ensure that what was
02:25:14 29 going on between the handler and the human source was
02:25:21 30 appropriate, ethical and so forth?---Yes.
31
02:25:27 32 And to enable you to make sure that information that was
02:25:32 33 being received was properly recorded?---Yes.
34
02:25:38 35 That if any information was disseminated, that you would
02:25:43 36 have an idea of what information was being
02:25:46 37 disseminated?---Yes.
38
02:25:51 39 And if you as the controller, because as the controller you
02:25:55 40 had a degree of oversight and more experience, you were a
02:26:02 41 [REDACTED] - perhaps I withdraw that. That should be
02:26:06 42 struck.
43
02:26:07 44 COMMISSIONER: Yes, strike that reference to rank from the
02:26:11 45 record.
46
02:26:12 47 MR WINNEKE: In any event, you were senior in rank and that

02:26:15 1 enabled you to carry out your managerial responsibilities
02:26:20 2 as set out in the various guidelines and so forth, you
02:26:23 3 agree with that?---Yes.
4
02:26:30 5 Ideally the information contact report would be prepared
02:26:36 6 and submitted to you as soon as possible after that 10 day
02:26:42 7 period had elapsed?---Ideally, yes.
8
02:26:46 9 I mean that's common sense, isn't it, because it's not much
02:26:50 10 good you signing off on an event that occurred months ago
02:26:58 11 because if there were issues the horse may well have bolted
02:27:01 12 at that stage?---Yes.
13
02:27:04 14 Is that a fair analysis?---It is, yes.
15
02:27:06 16 So it was the responsibility of the handler to sit down as
02:27:10 17 soon as possible after a period of 10 days and to produce
02:27:15 18 that document and to get it to you so as you could look at
02:27:19 19 it, correct?---Yes.
20
02:27:29 21 If we go to - let's say we go to ICR number 75, 3838 ICR
02:27:52 22 75, which is on p.789 of the second folder. Page 789.
02:28:22 23 That's the front page of the document, that's the
02:28:26 24 pro forma. I think at this stage we can safely say that
02:28:29 25 this wasn't the document that was originally printed out.
02:28:35 26 We'll find a PDF version of this. If we could have a look
02:28:40 27 at this document. It appears that the date range of the
02:28:43 28 information is from 15 April 2007 through to 24 April 2007
02:28:50 29 - sorry, 21st of the 4th 2007, I apologise. Do you see
02:28:54 30 that?---Yes.
31
02:28:56 32 The handler's name, I don't know whether you can see that -
02:29:04 33 - - ?---It's redacted.
34
02:29:06 35 Yeah, I know. Anderson. That's a handler by the name of
02:29:15 36 Anderson, right?---Yes.
37
02:29:21 38 There's a box there which says "controller advised prior to
02:29:24 39 contact" and it's ticked "yes". Now what does that mean?
02:29:30 40 Does that mean every contact?---No.
41
02:29:37 42 What do we get from that box which has been ticked "yes",
02:29:41 43 what do we take from that?---That would be in relation to
02:29:50 44 face-to-face meetings. It's impossible for a controller to
02:29:57 45 be advised by a contact often times when the source is
02:30:00 46 ringing a handler.
47

02:30:02 1 Yes?---This is probably a left over from the original
02:30:07 2 format of the form which was designed. So the history of
02:30:14 3 the form was that it was designed to record every single
02:30:18 4 individual contact individually.
5
02:30:21 6 Yes, I follow. I suppose all we can safely say is at least
02:30:24 7 one of the contacts which occurred during that period,
02:30:27 8 whether it be a face-to-face contact or a telephone
02:30:31 9 contact, there would have been some communication between
02:30:37 10 the, in this case you and Mr Anderson, and we'll see in due
02:30:43 11 course that you were the controller?---Yes.
12
02:30:45 13 Would that be fair to say?---Yes, it would be.
14
02:30:48 15 So to some extent, and I'm being critical because I
02:30:51 16 understand the way in which - to some extent there's not
02:30:53 17 much use to that box?---No, I think the relevance of that
02:30:59 18 would be only if it was a single face-to-face meeting.
19
02:31:03 20 Yeah, okay. It may well be that there is or isn't a
02:31:10 21 face-to-face meeting in here but we can look at that later.
02:31:18 22 "Has the informer been tasked?", and the box is the box is
02:31:19 23 ticked "yes" and there are details below, so that is a
02:31:21 24 useful box because you can assume that at some stage one of
02:31:23 25 the entries within that document will be referable to a
02:31:29 26 tasking that Ms Gobbo had been given or asked to undertake,
02:31:37 27 would that be fair to say?---Yes.
28
02:31:39 29 And any money benefit given to the source and "if yes
02:31:43 30 specify", et cetera, and there's nothing there, which would
02:31:46 31 indicate that nothing had occurred in that review?---Yes.
32
02:31:49 33 Fair to say?---Yes.
34
02:31:50 35 Right. We can see that there's at least four contacts,
02:32:00 36 there's a call received and there's a telephone call which
02:32:03 37 occurs at nine minutes past one and there's reference there
02:32:08 38 to various pieces of information?---Yes.
39
02:32:10 40 And we don't need to go through those for the purposes of
02:32:14 41 the exercise. Now at the bottom, if we can go right down
02:32:18 42 to the bottom, we can see "distribution: original
02:32:25 43 electronic copy to HSMU", right?---Yes.
44
02:32:31 45 Does that give you an idea as to what that document is or
02:32:35 46 what that particular version of the document is?---No, I
02:32:47 47 think that's just describing the process with all the

02:32:53 1 source contact reports.
2
02:32:55 3 Well, can I just ask you then about the - one would assume
02:33:01 4 the distribution is designed to indicate that - of this
02:33:07 5 particular document, that it is the original electronic
02:33:11 6 copy which was provided to the HSMU, but there's a copy at
02:33:15 7 the SDU. Is that on every form that is ever produced?---I
02:33:21 8 think you'll probably find that's a pro forma that's on
02:33:24 9 every form, because that was, as I described earlier.
10
02:33:28 11 Yes?---That's exactly what would occur. There would be two
02:33:31 12 copies before - - -
13
02:33:32 14 Yes, I follow that. If we go through this document, and
02:33:37 15 there's no need to go through the detail, but it says at
02:33:40 16 the bottom it's a 17 page document. At the end of the
02:33:45 17 document, if we go right through to the end which is at 91,
02:33:52 18 we see - you'll see on the form that there's PII but can I
02:34:02 19 tell you this, that the name in the document that we have
02:34:05 20 is Anderson as the handler, do you see that?---Yes.
21
02:34:11 22 And the date against that name is the 7th of the 2nd - you
02:34:19 23 can see, sorry, I got a fright there. You can see that
02:34:22 24 that was signed on 7 February 2008?---Yes.
25
02:34:27 26 I withdraw that. The name's there and the date's
02:34:30 27 there?---Yes.
28
02:34:31 29 Were there instructions given as to what was to be entered
02:34:39 30 into a box, that is the handler's name? One assumes that
02:34:43 31 there were instructions that the handler was to write his
02:34:47 32 name in the box and date the completion of the ICR, would
02:34:54 33 that be right, or was there some other instruction?---I
02:34:59 34 don't know if there was specific instructions in relation
02:35:03 35 to the form but policemen are very good at filling out
02:35:10 36 forms and I think it's self-explanatory I guess.
37
02:35:15 38 I don't know, would you assume that the date that's there
02:35:18 39 is the date that the document is completed or
02:35:21 40 commenced?---I would assume it's the date it was completed.
41
02:35:27 42 All right, okay. What I want to do - clearly if we're
02:35:37 43 talking about the information that is contained within the
02:35:41 44 document itself, it appears to be from 15 April to 21 April
02:35:46 45 2007 and it appears that that document wasn't created, and
02:35:52 46 we'll look at the original in due course, wasn't finalised
02:35:57 47 until 7 February 2008, the following year. Now what can we

02:36:02 1 take from that material or that information?---That's an
02:36:09 2 extraordinarily long period of time. At its face value it
02:36:16 3 appears that report's been done quite a considerable time
02:36:20 4 after the events and I can't explain how that could have
02:36:25 5 occurred. As I said to you yesterday, there was some
02:36:27 6 lateness in these forms being done but that's way too long.
7
02:36:34 8 I follow what you're saying. But the point that I was
02:36:38 9 trying to make is this, and I wasn't going to ask you about
02:36:41 10 that at this stage, but does that indicate that that's the
02:36:44 11 date? Are we able to say, is the Commissioner able to say,
02:36:49 12 "I look at that document and I can make a finding that
02:36:53 13 that's the date on which this document was created"?---I
02:36:55 14 think prima facie it must be.
15
02:36:57 16 Yes?---The only way you could be 100 per cent accurate is
02:37:00 17 to look at the metadata behind this form.
18
02:37:04 19 Okay. Who would have created this actual document and put
02:37:08 20 the name into that box there?---It should have been
02:37:14 21 Mr Anderson.
22
02:37:16 23 All right, okay. That would follow, that the handler is
02:37:21 24 the person who enters the information and puts the name in
02:37:23 25 the box and then puts the date there. As you say, that
02:37:27 26 appears to be a considerable period after the time of the
02:37:30 27 information which is entered, right, you accept
02:37:32 28 that?---Yes.
29
02:37:34 30 The controller's name is your name and the date on which it
02:37:43 31 appears to have been presented to you, or at least some
02:37:46 32 action is taken by you, is more than four months later on
02:37:53 33 12 June 2008?
02:37:55 34
02:37:55 35 COMMISSIONER: July. 12 July, isn't it?
36
02:38:03 37 MR WINNEKE: I'm sorry, the one on the screen - what's up
02:38:06 38 on the screen.
39
02:38:07 40 COMMISSIONER: That's a different one, isn't it? That's at
02:38:12 41 page - - -
42
02:38:14 43 MR WINNEKE: I think that's the wrong document on the
02:38:16 44 screen.
45
02:38:16 46 COMMISSIONER: Yes.
47

02:38:22 1 MR WINNEKE: We're dealing with 75, aren't we?
2

02:38:25 3 COMMISSIONER: 2391 is the last four numbers.
4

02:38:27 5 MR WINNEKE: No, go back to the previous - I'm sorry, the
02:38:30 6 next one, Mr Skim. It's VPL.2000.0003. That's it. Now go
02:38:38 7 to the end of that one. It's at - - -
02:38:43 8

02:38:44 9 MR HOLT: Commissioner, if it assists our friend, Sandy
02:38:46 10 White has the same volumes that the Commissioner and us all
02:38:51 11 have with the numbers in the bottom right-hand corner. If
02:38:54 12 there's any discrepancy with what's on the screen he will
02:38:57 13 be able to see those on the documents in the same form that
14 we have them.
15

02:39:00 16 COMMISSIONER: Mr White, apparently you've got the hard
02:39:03 17 copies and the same numbering we've been given should be
02:39:06 18 the same. That's now up on the screen so that now matches
02:39:09 19 what we were looking at before. 12 July 08, yes.
20

02:39:18 21 MR WINNEKE: That appears to be - so 7th of the 2nd is the
02:39:26 22 handler. Now you don't get to see that for more than five
02:39:30 23 months thereafter it appears. Now can the Commissioner
02:39:33 24 conclude that that's the case?---As I said to you, it seems
02:39:40 25 an extraordinarily long amount of time and - - -
26

02:39:47 27 Well - - - ?---I'm just trying to - I'm sorry, I'm just
02:39:51 28 looking at the dates. I don't know whether it was dated in
02:39:55 29 May of the year but the only way to know for sure would be
02:40:00 30 to check the metadata.
31

02:40:02 32 What I'm trying to understand is why your name appears in
02:40:05 33 that box and that date appears. Can you assist the
02:40:19 34 Commissioner about this particular document? I'm not
02:40:22 35 asking about the original document but this document which
02:40:25 36 appears to be a document which has been created at some
02:40:29 37 stage, one assumes, by Mr Anderson and it has your name and
02:40:39 38 that date there. How could that be the case, can you
02:40:41 39 explain that?---As I said, on the face of it what the
02:40:44 40 document is saying is that Mr Anderson finished the
02:40:48 41 document on 7 February 2008.
42

02:40:54 43 Yes?---And on the face of it I finished checking the
02:40:59 44 document on 12 July 2008.
45

02:41:02 46 Right. What I want to do is show you another document, if
02:41:08 47 we could have put up - again, I think we've got to do this

02:41:13 1 not across the board but - VPL.0016.0018.1341. It might
02:41:25 2 need to be downloaded so it might take some time, I
02:41:29 3 apologise. Just whilst we're waiting, Mr White, when that
02:42:44 4 document's completed I take it, is it provided to the
02:42:53 5 analysts within your unit for any particular
02:42:55 6 purposes?---Now you're testing my memory, Mr Winneke. It
02:43:10 7 may well be that - it might have been the case that these
02:43:17 8 documents went to the analytical area before they came to
02:43:21 9 me, or it might have been the case they went there after.
02:43:23 10 I just can't remember but the analysts - - -
11
02:43:27 12 Might the - sorry, I didn't mean to interrupt. Sorry, go
02:43:31 13 on?---These are the analysts that were working within my
02:43:34 14 office. They were involved in the process in terms of
02:43:36 15 checking the intel that was on those forms and doing some
02:43:41 16 work with it.
17
02:43:42 18 Yes?---I just can't remember where they fit in in the
02:43:46 19 process.
20
02:43:47 21 Is it the case that those documents were put on to a USB
02:43:50 22 and hand delivered by the analysts to the HMSU, is that the
02:43:57 23 situation?---No, I think they were burned on to a CD and
02:44:02 24 the CDs were taken, hand delivered to HMSU.
25
02:44:10 26 By the analysts?---In actual fact now that I think about
02:44:13 27 it, in the initial case they were burned on to the CD and
02:44:17 28 then hand delivered and HSMU would provide us with a
02:44:21 29 receipt.
30
02:44:22 31 Yes?---But then the system went on to what they called
02:44:25 32 Interpose.
33
02:44:26 34 Yes?---Which obviated the need to hand deliver documents.
02:44:30 35 I think we could download those documents or the analysts
02:44:35 36 could direct into the Interpose shell.
37
02:44:42 38 What we've got on the screen now, and I take it you can see
02:44:46 39 this, it appears to be a - it's a different document. This
02:44:53 40 is the first and the last page of the same document. You
02:44:58 41 can see that it's the same time frame, 15th of the 4th
02:45:06 42 2007, and the information appears to be the same, although
02:45:09 43 at this stage we haven't gone through and checked it word
02:45:12 44 for word. But there are some differences. There are some
02:45:14 45 differences. One, of course, is there appears to be
02:45:18 46 initials in the top right corner, do you see that?---I can
02:45:20 47 see that.

1
02:45:22 2 One assumes therefore this is a scanned document of a hard
02:45:27 3 - scanned copy of a printed out document, would that be
02:45:30 4 fair to say?---I have no idea, Mr Winneke.
5
02:45:33 6 Right, okay. Do you know whose initials they are in the
02:45:37 7 top right corner?---No, that doesn't look familiar to me at
02:45:41 8 all.
9
02:45:42 10 They're not yours in any event?---No, I don't think it's
02:45:48 11 mine.
12
02:45:49 13 We can't look at that and say, "They're your initials
02:45:54 14 therefore you signed, you've seen that document"?---I
02:45:57 15 wouldn't have any reason to put my initials in handwriting
02:46:03 16 on any of these documents.
17
02:46:05 18 All right. You don't know, you can't think of a reason why
02:46:09 19 those initials would be there? There's obviously a reason
02:46:12 20 but you don't know what it is, I take it?---That's right.
21
02:46:15 22 And you don't recognise those initials?---No. AR, I think.
02:46:23 23 No.
24
02:46:25 25 Excuse me a moment. The other difference which is apparent
02:46:50 26 is that instead of being ICR number 75, it's ICR number 74,
02:46:56 27 and we understand that there's an explanation for that and
02:46:59 28 that is that there was duplications and re-numberings and
02:47:07 29 so forth, but I don't need to go into that. There's a
02:47:11 30 final thing I want to take you to and that's the last page
02:47:14 31 of the document. It's obviously got Anderson's name on it
02:47:20 32 and the date, being 7 February 2008. But there's nothing
02:47:28 33 against the controller's name. Are you able to explain
02:47:35 34 what that document is and how that document came into
02:47:39 35 being?---No.
36
02:47:42 37 As we understand that was a document that was found within
02:47:46 38 the original hard drive - I withdraw that. We're told that
02:47:57 39 this is an original document which was created by your
02:48:01 40 unit, would that be fair to say?---It certainly looks like
02:48:07 41 it was. I know there's been a reconciliation of the ICRs
02:48:17 42 and there's ICRs that are said to have been missing or
02:48:20 43 duplicated. I notice that's been worked out, and I haven't
02:48:25 44 been involved in any of that work. All I can say to you is
02:48:28 45 this is the form we would use.
46
02:48:31 47 Yes?---It's consistent with the one you showed me before

02:48:34 1 but I don't know why the information would be on two
02:48:36 2 different ICR numbers if the information's the same.
3
02:48:40 4 Let me ask you about the storage of these documents. I
02:48:42 5 take it an ICR would be stored within a hard drive
02:48:46 6 originally at the SDU, would that be right?---So can I just
02:48:59 7 describe the process again?
8
02:49:00 9 Yes, please?---Just to make that clear.
10
02:49:03 11 Yes?---Each member of the SDU had his or her own directory
02:49:11 12 in a directory structure for a stand alone computer and all
02:49:19 13 their work, all the work they saved would live in that
02:49:24 14 particular directory relevant to them. This is how it
02:49:31 15 worked initially. When they had finished their
02:49:34 16 correspondence and they wanted it checked, it would then
02:49:36 17 get moved, they would move it out of their directory and
02:49:38 18 into the controller's directory for checking.
19
02:49:41 20 How's that done?---It's just moving one file from one
02:49:45 21 directory to another.
22
02:49:48 23 Right. Can I stop you there then. Would that indicate
02:49:52 24 that once Anderson finishes, completes this document, puts
02:49:58 25 his name and the date on the document, he would then submit
02:50:02 26 it to his controller by moving it from his directory or
02:50:06 27 moving a copy of it from his directory into your
02:50:09 28 directory?---Yes.
29
02:50:11 30 Would it then be your responsibility to check the
02:50:15 31 document?---Yes.
32
02:50:21 33 And indicate that you'd checked it by putting your name in
02:50:25 34 the controller's name and then the date against the
02:50:30 35 relevant date?---Yes, that's right.
36
02:50:41 37 In any event - - - ?---Sorry, I do need to add that at some
02:50:47 38 point we moved to the Interpose system so then the whole
02:50:51 39 process changed.
40
02:50:52 41 You better tell us how it occurred with the Interpose
02:50:57 42 system then?---So - - -
43
02:51:04 44 I take it the document is created in the same way, by going
02:51:07 45 to the same Microsoft word pro forma and entering
02:51:13 46 information into it, is that the same process?---It's still
02:51:17 47 a Word document, that's right. I'm just trying to recall -

02:51:21 1 I think you'll need somebody who's got more memory of this
02:51:28 2 than me. I think they put it into the Interpose system and
02:51:32 3 then I could tell it was online in that system, which meant
02:51:36 4 HMSU had access to it, and I could tell which ones were
02:51:42 5 ready for me to check. Then I had to log into the
02:51:45 6 Interpose system. I'm not 100 per cent of that,
02:51:48 7 Mr Winneke.
8

02:51:49 9 All right. In any event, what we can say is that when you
02:51:53 10 check it your responsibility is to put your name in there
02:51:56 11 and indicate the date on which you checked it?---Yes.
12

02:52:05 13 If there's a document which has your name and date against
02:52:08 14 it, that would be the best evidence that we have as to when
02:52:11 15 you've checked it?---Yes.
16

02:52:22 17 There are a number of documents that we have where your
02:52:26 18 name's there but there are no date - there's no date
02:52:31 19 entered against it. Can you explain why that might be the
02:52:34 20 case?---No, I can't.
21

02:52:36 22 Is it conceivable that the handler would enter your name in
02:52:40 23 the controller's name box and then leave the date box blank
02:52:46 24 for you to insert the date when you had checked off the
02:52:54 25 ICR?---It's a possibility.
26

02:52:57 27 Right?---I don't recall them doing that but it's
02:53:00 28 conceivable.
29

02:53:02 30 Right. In any event, so far as this one's concerned it
02:53:11 31 appears to be the case that you didn't check this document
02:53:15 32 off until June of 2008, that appears to be the case?---On
02:53:21 33 the face of it. I will reiterate the metadata will show
02:53:26 34 clearly when that occurred.
35

02:53:29 36 It may well do but can you think of a reason why your name
02:53:33 37 and a date would be entered if you had checked the ICR at
02:53:41 38 an earlier time, can you think of any reason?---No, no.
39

02:53:46 40 If we then go to the source management log for this period.
02:53:56 41 If we can go to p.107 of the source management log. Have
02:54:14 42 you got a source management log which is printed out there,
02:54:19 43 Mr White?---I have, but my copy has notes throughout it. I
02:54:23 44 don't think the page numbers will be the same. If you give
02:54:25 45 me the date I'll have the entry that you're looking at.
46

02:54:29 47 Try the page number first. If you go to p.106 - or 107

02:54:33 1 rather. This is a 3838 (indistinct)?---I have p.107.
2
02:54:54 3 Does that start with an entry on 12 April?---No.
4
02:54:58 5 See if you can go to a page which has the date of 12 April
02:55:03 6 2007?---Okay, I have that.
7
02:55:35 8 The period that we're concerned with concerns
02:55:40 9 communications between Anderson and Gobbo from 15 April
02:55:47 10 through to 21 April 2007, do you see that? Maybe it's
02:55:57 11 worthwhile having the ICR number 75 or 74, depending on
02:56:01 12 which one you're working from, but at p.789 just to do this
02:56:08 13 exercise?---The entry for 12 April 07 makes a reference to
02:56:19 14 phone calls with Mr Anderson and then in bracket five.
15
02:56:25 16 Yes?---Then the ICR reference number is 73.
17
02:56:28 18 If we move down to the 15th of the 4th 07?---Yes.
19
02:56:34 20 You'll see the ICR reference is number 74, do you see
02:56:38 21 that?---Yes.
22
02:56:41 23 So that indicates that we were looking - you recall we
02:56:45 24 looked at the other ICR which was said to be the original
02:56:49 25 ICR, and that was number 74, do you agree?---Yes.
26
02:56:52 27 And so the entry on that date, one assumes, then is
02:56:56 28 referable to the original ICR number 74 and if we can
02:57:01 29 accept the proposition that at some stage after your
02:57:04 30 involvement the number changed to 75, but let's assume 74
02:57:08 31 is the correct entry?---Yes.
32
02:57:10 33 There's a reference to C and M. That would be the type of
02:57:17 34 activity, both contact and management; is that
02:57:21 35 right?---That's right.
36
02:57:21 37 So contact is a reference to a communication between the
02:57:28 38 handler and the source, correct?---Correct.
39
02:57:33 40 And a management entry is something that you would
02:57:39 41 specifically do, that is you would make an entry which
02:57:42 42 refers to a managerial role or a management role with
02:57:46 43 respect to Gobbo; is that right?---That's right.
44
02:57:52 45 You were the controller it appears at this stage. Can we
02:57:56 46 assume therefore that it was you who entered this
02:57:59 47 information into the SML?---I think you can.

1
02:58:09 2 Was the SML a document that was freely available to all
02:58:13 3 handlers to make entries in or not?---No, it wasn't. It
02:58:18 4 was available to the controllers.
5
02:58:22 6 So can we be confident that the handlers would not have had
02:58:27 7 access to this document and would not have made entries
02:58:30 8 into this document?---No, they would have had access but
02:58:34 9 they would not have been making entries in this document.
10
02:58:37 11 That was clearly the understanding, was it, that it wasn't
02:58:41 12 their document to tamper with?---Yes, it was just not part
02:58:48 13 of their role. They had more than enough to do without
02:58:53 14 adding to this document.
15
02:58:54 16 The document, was it ever printed out or is this something
02:58:57 17 that's only been done in more recent times?---I think this
02:59:01 18 document was printed out many years ago.
19
02:59:09 20 Was it - - - ?---I think probably - I'm understanding now
02:59:14 21 that I think Mr Comrie and his team probably had access to
02:59:19 22 this document.
23
02:59:23 24 When you were producing the document was it an electronic
02:59:27 25 form or was it in a printed form? Did you print it out as
02:59:31 26 you went along or was it something that simply stayed
02:59:34 27 within the computer system at the SDU?---I think it mostly
02:59:40 28 stayed on the computer system. I didn't - yeah, from
02:59:48 29 memory I don't believe I would have ever printed this out.
30
02:59:53 31 There was no reason to, would that be fair to say?---Yes.
32
02:59:59 33 Even if you went and had meetings with your clients would
03:00:03 34 there be any reason to take entries in the SML?---No.
35
03:00:09 36 What we can say is that there are a number of entries which
03:00:13 37 have been made, probably by you. So, for example, on 15
03:00:19 38 April there's a reference to the RS, being registered
03:00:26 39 source I assume; is that right?---Yes.
40
03:00:27 41 "Calls Mr Anderson", right, and there's a number there.
03:00:34 42 Does that indicate the number of calls on that
03:00:36 43 day?---Sorry, I just - I'm just thinking on what you said.
03:00:44 44 I never referred to a source as an RS.
45
03:00:48 46 Well then who would have - - - ?---I always - well, it may
03:00:52 47 well have been that one of the other members if I was on

03:00:56 1 leave perhaps or at a course, they may have been updating
03:00:59 2 this paperwork as the acting controller.
3
03:01:06 4 So you believe that that's not your entry?---I can't say
03:01:14 5 exclusively that it's not but I'm just saying to you, RS
03:01:20 6 meant registered source? I never used that terminology.
03:01:23 7 It was always a human source.
8
03:01:31 9 Have you got your diaries with you?---I have, yes.
10
03:01:36 11 Can you go to your diary of 15 April 2007?---I have that
03:02:42 12 Mr Winneke.
03:02:43 13
03:02:43 14 Were you working on that day at the SDU?---15 April 2007
03:02:49 15 was a rest day.
03:02:50 16
03:02:51 17 So you wouldn't have been on on that day. You weren't
03:02:56 18 then, I take it, the controller on that day, there would be
03:02:59 19 another person who was the controller on that day?---Well,
03:03:03 20 I can see from my diary that the preceding week, right up
03:03:09 21 to and including 16 April, I was on leave.
03:03:11 22
03:03:12 23 Yes?---And I came back to work on 17 April.
03:03:16 24
03:03:16 25 All right. So is there, was there a register kept as to
03:03:21 26 who was in effect controlling a particular source at a
03:03:25 27 particular time on a particular day, any - - - ?---Yes,
03:03:30 28 there is. Well - yes, there is.
03:03:34 29
03:03:35 30 What was that record?---It was called the Change of
03:03:43 31 Participants Form and it nominated when there was a change
03:03:46 32 in handlers or controllers. It was sent then to the HSMU
03:03:51 33 who would make the notation on their management file.
03:03:56 34
03:03:56 35 Yes. If we go through this record we can see that, and we
03:04:12 36 understand that it wasn't you, it was another person whose
03:04:18 37 name is - no pseudonym.
03:04:22 38
03:04:22 39 MR CHETTLE: He should have one, we haven't used it before.
03:04:26 40 He is a member of the SDU, he hasn't been given a pseudonym
03:04:33 41 but he should be given one. It's the first time he's got a
03:04:38 42 mention. He should have a pseudonym. Can we add to
03:04:55 43 exhibit - - -
03:04:57 44
03:04:58 45 COMMISSIONER: We could but does the witness know who we're
03:05:02 46 talking about?
03:05:03 47

03:05:03 1 MR CHETTLE: No. We can inform him if you like,
03:05:08 2 Commissioner.
03:05:08 3
03:05:10 4 COMMISSIONER: Could someone inform me, write it down on a
03:05:13 5 piece of paper and inform me?
03:05:16 6
03:05:17 7 MR CHETTLE: Yes, I'll do that for you now, Commissioner.
03:05:19 8
03:05:19 9 COMMISSIONER: And then we'll have 81B amended.
03:05:52 10
03:05:52 11 MR WINNEKE: I take it, Mr White, you know - do you know
03:05:57 12 who we're talking about?---I do, yes.
13
03:06:04 14 MR CHETTLE: He does now.
03:06:06 15
03:06:07 16 COMMISSIONER: The pseudonym is Woods, is it - - -
03:06:11 17
03:06:12 18 MR CHETTLE: Woods, is it?
03:06:15 19
03:06:15 20 COMMISSIONER: I thought that's what I heard.
03:06:19 21
03:06:20 22 MR CHETTLE: No one has given him anything. Richards?
03:06:22 23 Richards is fine says Mr Holt.
03:06:25 24
03:06:25 25 MR WINNEKE: Let's call him Mr Richards, all right?---Yes.
03:06:30 26
03:06:38 27 When you go through that source management log - perhaps
03:06:42 28 before we go there. Is it fair to say therefore at that
03:06:46 29 stage, certainly on that day, and if we go through we can
03:06:49 30 see RS is used on 17 April, and we can see RS on the 19th,
03:07:00 31 RS on the 20th, RS on the 22nd. If we go through the
03:07:12 32 source management log we can see that that, that suggests
03:07:17 33 that it's Mr Richards who is probably the controller at
03:07:20 34 that stage, or acting as the controller, is that right?---I
03:07:24 35 think so.
03:07:24 36
03:07:33 37 Can you cast your mind back to the original of the ICR that
03:07:42 38 you saw. Do you recall that there were some initials in
03:07:45 39 the top corner of that document?---Yes.
03:07:48 40
03:07:48 41 Do you think they might have been Mr Richards'
03:07:52 42 initials?---I honestly have no idea.
03:07:58 43
03:08:00 44 We know that you were at various stages a controller of
03:08:06 45 Ms Gobbo, correct?---Yes.
03:08:09 46
03:08:09 47 We know that Mr Black was a controller of Ms Gobbo,

03:08:20 1 correct?---Mr Black was a handler.
03:08:27 2
03:08:27 3 Was never a controller?---No, he may well have been a
03:08:31 4 controller, I just can't remember. I know he was
03:08:33 5 definitely a handler in the early stages.
03:08:36 6
03:08:37 7 Looking at the list of names, are you able to tell us the
03:08:42 8 names of any other people who were controllers with respect
03:08:46 9 to Ms Gobbo?---Mr Smith may at one point - - -
03:08:59 10
03:09:00 11 Yes?--- - - - have been a controller.
03:09:01 12
03:09:02 13 All right?---And Mr Green may also have been one. I'm not
03:09:07 14 sure but obviously when I was on leave or on courses
03:09:11 15 somebody had to fill in.
03:09:12 16
03:09:12 17 All right. Well then can I ask you this then: the
03:09:16 18 document that we've gone through, the document which is
03:09:24 19 apparently an electronic copy of a document which has your
03:09:27 20 name on it and the date being, it was in I think June of
03:09:35 21 2008, that suggests that you were the, you were a
03:09:43 22 controller or the controller with respect to that period of
03:09:47 23 time, is that right or not?---I think what the name and
03:09:56 24 date suggests is that, as we discussed earlier, it's the
03:10:02 25 time or the date that the form was checked.
03:10:06 26
03:10:06 27 Right. So certainly what you can say is that on that date,
03:10:11 28 the Commissioner can be comfortable that on that date you
03:10:14 29 checked the document, right?---Yes.
03:10:20 30
03:10:20 31 Insofar as a controller actually checking the document, the
03:10:26 32 controller who was actually controlling at the time, we
03:10:33 33 couldn't be confident, for example, that Mr Richards
03:10:38 34 checked the ICR - we don't know on what date Mr Richards
03:10:44 35 checked the ICR if indeed he did, assuming they're his
03:10:49 36 signatures, because there's no date against the name and
03:10:51 37 indeed there's no name there in the original
03:10:53 38 document?---No.
03:10:57 39
03:11:00 40 And if it is Mr Richards' initial on the document, how can
03:11:06 41 the Commissioner know when Mr Richards saw the
03:11:09 42 document?---I'm not sure if Mr Richards did see the
03:11:20 43 document. Are you talking about ICR number 74 still?
03:11:23 44
03:11:23 45 Yes, 74?---Yes. Well, I think, as I said, the document
03:11:30 46 shows it was checked by me, not Mr Richards. As far as the
03:11:34 47 one that's got the entry that's not complete, that may well

03:11:40 1 have come out of Mr Anderson's box, he may have kept a copy
03:11:47 2 of the ICR when he finished it. I don't know why that one
03:11:50 3 is there.
03:11:51 4
03:11:52 5 Perhaps if we can put that document back up again, if we
03:11:55 6 can.
03:12:00 7
03:12:00 8 COMMISSIONER: It's a PDF version of ICR 74.
03:12:29 9
03:12:29 10 MR WINNEKE: Do you think those might be his initials or
03:12:32 11 not?---I have no idea.
03:12:35 12
03:12:35 13 Okay. Thanks very much for that. Now, Mr White, I was
03:12:47 14 asking you yesterday about your recollection that you first
03:12:55 15 considered the possibility of registering, at least
03:13:00 16 recruiting Ms Gobbo as a human source at around the time
03:13:03 17 that she was hospitalised and we know that she was
03:13:08 18 hospitalised the previous year, 2004, in late July. That's
03:13:14 19 your recollection?---Yes.
03:13:17 20
03:13:19 21 I asked you also whether you'd had any dealings with
03:13:23 22 Ms Gobbo prior to your involvement with her in the SDU.
03:13:32 23 You don't recall having any dealings with her, is that
03:13:34 24 right?---Yes.
03:13:36 25
03:13:40 26 We've got a record of a meeting which occurred on 10 August
03:13:44 27 of 2004 recorded in Mr Jim O'Brien's diary. It appears to
03:13:59 28 be a meeting attended regarding a particular operation
03:14:03 29 called Operation Gruel. Do you recall that
03:14:07 30 operation?---No.
03:14:08 31
03:14:10 32 And there are a number of people at the meeting, including
03:14:14 33 Detective Inspector Shawyer, you know him I take it?---Yes.
03:14:19 34
03:14:20 35 You were there. Mr Mansell was there and Mr Rowe was
03:14:25 36 there, do you know them?---Yes.
03:14:29 37
03:14:30 38 And then there's a reference to a person by the name of
03:14:35 39 Bannon, do you know who that person is?---Sorry, was that
03:14:40 40 Bannon?
03:14:40 41
03:14:41 42 Bannon?---Yes.
03:14:41 43
03:14:42 44 Who's that?---She was an analyst at the MDID.
03:14:47 45
03:14:47 46 At that stage I take it you had left the MDID or were you
03:14:53 47 still there under Mr Biggin but you had significant duties

03:14:57 1 with respect to the development of the SDU or the
03:14:59 2 DSU?---This is August 04.
03:15:06 3
03:15:06 4 Yes?---I think I was working on the informer management
03:15:11 5 project review.
03:15:12 6
03:15:12 7 Were you still within the MDID?---That's right, I was still
03:15:16 8 working on that floor.
03:15:17 9
03:15:38 10 The meeting concerned unit 1, and then it says, "Rob has
03:15:49 11 second telephone. S/D Rowe to ID the same via CCR
03:15:59 12 material. Operation Gruel, prepare affidavits to get
03:16:10 13 [REDACTED]'s phone". Do you recall anything about that
03:16:13 14 particular matter?---No.
03:16:14 15
03:16:17 16 You have no recollection about that?---No.
03:16:19 17
03:16:20 18 And then it also says, "- all members to submit information
03:16:28 19 reports regarding their contact with Nicola Gobbo and work
03:16:36 20 towards a possible telephone intercept application", okay?
03:16:44 21 Now, does that refresh your recollection about when you may
03:16:51 22 have first had the thought of registering Ms Gobbo as an
03:16:57 23 informer?---No, this doesn't ring any bells at all.
03:17:01 24
03:17:05 25 What you say is that at that stage you were aware or you
03:17:08 26 became aware that she was hospitalised and it may well be
03:17:12 27 that at that stage she could be vulnerable to an approach
03:17:21 28 and an, or at least an attempt to register her. This is
03:17:26 29 two weeks after she had her stroke. What I suggest to you
03:17:29 30 is it would be consistent with that meeting that you would
03:17:32 31 have been in possession of that information?---I can't
03:17:37 32 assist you at all, Mr Winneke, I've got no recollection of
03:17:41 33 this.
03:17:41 34
03:17:45 35 Is it a reasonable supposition to make that if you're aware
03:17:49 36 that she's hospitalised, you're having meetings with
03:17:53 37 Mr O'Brien, there's been discussions about IRs, it's about
03:17:58 38 the time that she has been hospitalised, that that might
03:18:01 39 have been about the time that you had some idea it could be
03:18:06 40 worth registering her as an informer?---It's possible that,
03:18:13 41 the fact that she had been hospitalised came out of this
03:18:16 42 meeting.
03:18:17 43
03:18:18 44 Yes?---I just don't know.
03:18:19 45
03:18:19 46 Right. Subsequent to this meeting, in September of 2004,
03:18:39 47 on the, I think it's the 23rd - 25th? 23rd. It seems that

03:18:51 1 you have travelled to [REDACTED] with Detective Jim O'Brien, do
03:19:01 2 you recall that?---No.

03:19:05 3
03:19:05 4 No recollection of travelling to [REDACTED] with
03:19:07 5 Mr O'Brien?---No.

03:19:09 6
03:19:09 7 Do you recall giving a presentation concerning money
03:19:14 8 laundering on behalf of the DSU, does that give you any
03:19:23 9 information to refresh your recollection?---No, it's not
03:19:27 10 ringing any bells. Who was the presentation to?

03:19:30 11
03:19:30 12 I'm asking you. Do you recall?---No.

03:19:32 13
03:19:34 14 And do you recall that Mr O'Brien gave a presentation?---I
03:19:42 15 don't recall the actual event, Mr Winneke.

03:19:45 16
03:19:45 17 And he gave a presentation on something about the DEA,
03:19:54 18 NCAC, money laundering, that's your presentation?---No,
03:20:04 19 that's not ringing any bells at all.

03:20:06 20
03:20:06 21 Right. Do you recall that Detective Acting Superintendent
03:20:10 22 Hill was there?---I don't recall him being there at all,
03:20:16 23 Mr Winneke.

03:20:17 24
03:20:18 25 The following day. And it was at the [REDACTED] Surf Life
03:20:25 26 Saving Club, no recollection?---Now, that is a
03:20:28 27 recollection.

03:20:28 28
03:20:28 29 What is your recollection?---That was a, that was a
03:20:31 30 workshop. It was a two day workshop, we stayed overnight I
03:20:38 31 think at the life saving club. And that's about all I can
03:20:46 32 tell you. These workshops, we'd occasionally run these
03:20:54 33 workshops and there would be a variety of presenters.

03:21:02 34
03:21:11 35 You recall staying at the Surf Life Saving Club, do
03:21:15 36 you?---Yes, I do.

03:21:17 37
03:21:18 38 I think it's bunk accommodation, is that right?---Yes, it
03:21:22 39 is.

03:21:22 40
03:21:26 41 You travelled down with Mr O'Brien?---If that's what it
03:21:34 42 says in Mr O'Brien's diary that would be right.

03:21:37 43
03:21:40 44 I take it you were obviously a work colleague of
03:21:43 45 Mr O'Brien?---Yes.

03:21:45 46
03:21:46 47 And would you regard yourself as a reasonably - well a

03:21:52 1 friend of Mr O'Brien's?---Yes, I do.
03:21:55 2
03:21:55 3 On good terms with Mr O'Brien?---Yes.
03:21:57 4
03:22:00 5 At that stage the MDID and he - all right. Now, Detective
03:22:14 6 Acting Superintendent Hill was there and it appears that
03:22:17 7 there were members from the Undercover Unit there. We
03:22:21 8 don't need to go into the names of those, but does that
03:22:25 9 assist you in your recollection as well?---No, not really.
03:22:31 10 I can recall the Surf Life Saving Club, that's about all I
03:22:37 11 can recall. I know it was for a workshop. If you want
03:22:41 12 anything further, Mr O'Brien takes very good notes so I
03:22:44 13 would rely on those, and there should have been an agenda
03:22:49 14 prepared which will probably be on a computer somewhere at
03:22:53 15 the MDID.
03:22:53 16
03:22:54 17 All right then. Do you know whether there were any members
03:22:57 18 of Purana there?---No, I just can't recall.
03:23:01 19
03:23:02 20 All right then. Is it reasonable to assume that at around
03:23:08 21 that time, that you would have had discussions with
03:23:10 22 Mr O'Brien about your suggestion, or at least your idea of
03:23:16 23 registering Ms Gobbo as a human source?---No, my
03:23:20 24 recollection of that conversation was that that was in his
03:23:27 25 office at St Kilda Road. It was only a very brief
03:23:30 26 conversation and it was never pursued. I think it was only
03:23:33 27 ever mentioned once.
03:23:34 28
03:23:36 29 Right. Okay, thanks very much. If I can return to your
03:23:44 30 interview with Ms Gobbo on 16 September 2005. I was asking
03:23:59 31 you yesterday about, questions about your discussion with
03:24:07 32 her. I want to put this proposition to you: you
03:24:11 33 understood at the time that she was being presented to you
03:24:14 34 as a person who might have significant information with
03:24:16 35 respect to the Mokbel cartel, if I can put it that way, and
03:24:21 36 you agree with that?---Yes.
03:24:23 37
03:24:25 38 Ultimately it was a question for you to find out what
03:24:28 39 information she had, correct?---Correct.
03:24:31 40
03:24:32 41 You understood that she was at that stage acting for
03:24:37 42 Mr Mokbel?---I'm not sure that I knew at that stage.
03:24:44 43
03:24:45 44 I wonder if we can just play a brief clip.
45
03:25:14 46 (Audio recording played to the hearing.)
47

03:25:20 1 In effect that's the introduction that you make to her.
03:25:24 2 You want to find out everything she can tell you about Tony
03:25:29 3 Mokbel, correct?---Correct.
03:25:30 4
03:25:30 5 It doesn't matter how long it takes, it can take as long as
03:25:33 6 it takes but that's what you want to do?---Correct.
03:25:36 7
03:25:41 8 You weren't asking her to provide only information that was
03:25:49 9 information that she had learnt other than through her
03:25:55 10 representation of Mr Mokbel, you wanted everything that she
03:25:57 11 could tell you, right?---Sorry, other than her
03:26:04 12 representation of Mr Mokbel?
03:26:06 13
03:26:06 14 Yes?---Can you rephrase the question? I'm not quite sure
03:26:09 15 what you asked there.
03:26:10 16
03:26:11 17 You wanted all of the information, there were no
03:26:14 18 restrictions on the information you wanted from her, you
03:26:16 19 wanted everything she could possibly tell you?---Yes.
03:26:20 20
03:26:22 21 If you go to page - have you got transcript there with
03:26:26 22 you?---No.
03:26:32 23
03:26:33 24 Perhaps if we can put up VPL.0005.0051.0002 at p.19. Just,
03:26:51 25 perhaps not across all screens but just me and the witness
03:26:55 26 and the Commissioner, please. She offers you some
03:27:26 27 information and she's saying, "Well look, it's kind of
03:27:38 28 being put in situations either directly or indirectly by
03:27:41 29 Tony or other members of his family and you know there's a
03:27:44 30 really fine line being exposed to something, knowing about
03:27:47 31 something or knowing about someone's plan to commit some
03:27:50 32 crime, or not plan, but ideas or thoughts or desires and
33 not acting on them and what's often in mind, in the back of
03:27:56 34 my mind is, you know, someone down the track, a listening
03:28:01 35 device conversation of this or a telephone intercept, um,
03:28:05 36 or something, I'm going to be judged as a lawyer, I'm not
03:28:08 37 going to be judged as someone" - and then we can't hear any
03:28:13 38 further. So what she's making plain, I suggest to you, is
03:28:20 39 that she's a lawyer and that's the way she's going to be
03:28:24 40 judged, do you accept that?---That's what she seems to be
03:28:27 41 saying, yes.
03:28:28 42
03:28:28 43 And making it clear to you that it's going to be as a
03:28:32 44 lawyer she will be judged if someone ever finds out about
03:28:36 45 this as a person who's providing information?---Yes.
03:28:42 46
03:28:44 47 Now, I take it it obviously occurred to you that there

03:28:51 1 could be a professional problem for her in doing what in
03:28:56 2 effect you were seeking her to do?---Well, at this stage
03:29:03 3 all I'm simply doing is trying to get as much information
03:29:07 4 as I can. I can't tell you now what I was thinking in
03:29:12 5 regards to her professional standing.
03:29:14 6
03:29:15 7 That may be right, but what she was doing was making it
03:29:18 8 clear to you that as a lawyer she had certain professional
03:29:24 9 obligations and she'd be judged with respect to those
03:29:28 10 obligations. I suggest to you that's what she's telling
03:29:32 11 you?---That is right.
03:29:35 12
03:29:35 13 And then if you go over the page, and we can't use - we're
03:29:43 14 not going to use names, but what she said was that the
03:29:46 15 second thing that changed probably in the last few months
03:29:49 16 is that, or not in the last few months, in 2003, 2004, even
03:29:54 17 before the stroke or after the stroke's happened, the first
03:29:57 18 half of 2004, and she describes a fellow for whom she was
03:30:01 19 acting, who ended up [REDACTED] one of the [REDACTED]
03:30:06 20 [REDACTED] in the State, and she says, "I don't know if you
03:30:11 21 know about, but as a consequence or in the period of acting
03:30:15 22 for him [REDACTED] and that brought
03:30:21 23 considerable stress and pressure to me because I didn't
03:30:25 24 want people to find out that I was the one who, through me,
03:30:30 25 gone down that path", do you follow that?---Yes, I do.
03:30:34 26
03:30:35 27 "I went through the most significant period of paranoia in
03:30:39 28 my life which resulted in the stroke. Yeah. Or that had a
03:30:45 29 lot to do with the stress that I was under at the time and
03:30:49 30 I still live in fear of that coming out because it's going
03:30:53 31 to take, all it's going to take is for some Supreme Court
03:30:58 32 judge to release police diary notes where it's me that
03:31:03 33 they're meeting and it's me that they're speaking to, it's
03:31:07 34 me editing like the statements before they get sworn and
03:31:11 35 served, that sort of stuff", do you see that?---Yes.
03:31:14 36
03:31:17 37 "But the pressure that was brought to bear on me then by
03:31:20 38 crooks, as in don't let this bloke take that course,
03:31:24 39 convince him otherwise", et cetera. So what she's saying
03:31:29 40 is that she perceived that she had a role [REDACTED]
03:31:38 41 [REDACTED], and she's had
03:31:42 42 an involvement and she said editing statements, she's been
03:31:50 43 very, very concerned about that getting out and being
03:31:53 44 exposed, do you follow what I'm putting to you?---Yes.
03:31:57 45
03:31:57 46 Now, you understood what she was talking about at the time
03:32:00 47 I take it?---I think it's clear what she's saying.

03:32:08 1
03:32:09 2 Yes. Did you know at that stage the matter that she was
03:32:11 3 talking about?---No.
03:32:13 4
03:32:14 5 MR HOLT: Obviously no - I wonder if my friend, we're in
03:32:18 6 really dangerous territory in relation to this so I wonder
03:32:21 7 whether my friend can preface his questions to ensure - - -
03:32:21 8
9 MR WINNEKE: I'm not asking - - -
10
03:32:22 11 COMMISSIONER: He's not asking for names.
03:32:23 12
03:32:23 13 MR WINNEKE: I'm not asking for names.
03:32:25 14
03:32:26 15 MR HOLT: Or any identifying features.
03:32:29 16
03:32:26 17 MR WINNEKE: Or any identifying features but did you know
03:32:30 18 what she was talking about, the particular person or
03:32:33 19 matter?---No.
03:32:34 20
03:32:34 21 COMMISSIONER: I think the answer was no.
03:32:36 22
03:32:36 23 MR WINNEKE: No, is that right?---Yes.
03:32:38 24
03:32:39 25 You say you don't know now or you wouldn't have known
03:32:42 26 then?---I didn't know then.
03:32:44 27
03:32:45 28 Right. Would you have subsequently made efforts to find
03:32:48 29 out?---I don't know.
03:32:54 30
03:32:56 31 Do you think it would have been prudent to?---It may have
03:33:06 32 been prudent to but I've had the view for the whole
03:33:12 33 relationship when we were with her that issues that were
03:33:16 34 between her and her clients in relation to their
03:33:19 35 instructions for their court matters had nothing to do with
03:33:23 36 me or my team.
03:33:25 37
03:33:25 38 Right. And then the conversation goes on - - -
03:33:31 39
03:33:32 40 MR HOLT: Can I just approach my friend, Commissioner?
03:33:59 41
03:34:00 42 MR WINNEKE: Just to clarify the ground rules,
03:34:03 43 Commissioner, we have referred to this person before and I
03:34:06 44 mean I'm getting anxious because Mr Holt's getting anxious.
03:34:11 45 We have referred to this person before. There are orders
03:34:14 46 with respect to this person.
03:34:16 47

03:34:16 1 MR HOLT: That's not the issue, Commissioner, there's the
03:34:19 2 next paragraph coming up which has a clear claim in it, I
03:34:22 3 was concerned to ensure that our learned friend had a copy
03:34:26 4 of the shaded version of this, and I provided him with mine
03:34:29 5 because I understand he doesn't because there are some
03:34:31 6 matters which I think are clear in those. I am being
03:34:37 7 cautious and nervous but in respect of what's to come.

03:34:40 8
03:34:40 9 MR WINNEKE: What I want to do is ask the witness about
03:34:43 10 whether he knew about the particular matter because it was
03:34:46 11 a renowned matter, it concerned a [REDACTED] witness.

03:34:54 12
03:34:54 13 MR HOLT: This is all bio data which has been given in the
03:34:58 14 course of the submission to you, Commissioner. That's the
03:34:59 15 problem now, we're starting to lead into evidence that
03:35:05 16 might tend to identify a particular person who can't be for
03:35:07 17 reasons that have already been given. What's been put is
03:35:09 18 fine, in terms of the words that are being used, and the
03:35:12 19 general statement as to whether inquiries were made and so
03:35:14 20 on. But if our learned friend wants to go and ask about
03:35:18 21 that particular matter and whether there was knowledge of
03:35:19 22 it, which is a perfectly legitimate line of inquiry, we'd
03:35:20 23 ask that be done in camera given the risks to that person.

03:35:25 24
03:35:26 25 MR WINNEKE: I'll leave that. What she's saying to you is
03:35:36 26 that, and this is at p.20 of the transcript, 21 at the top,
03:35:51 27 "I'm sure if you come up with surveillance these people ...
03:36:02 28 when you're not the target of surveillance or maybe I was
03:36:05 29 from, because of the fact that when [REDACTED]
03:36:08 30 [REDACTED] the police thought I was a stooge. They
03:36:11 31 thought that I was there for Williams and Mokbel", do you
03:36:18 32 see that?---Yes.

03:36:18 33
03:36:19 34 "And as it turned out it took a long time for them to see
03:36:22 35 the reality, which is that I wasn't there from that point
03:36:25 36 of view and I live in fear now that that was still to be
03:36:29 37 found out and still an ongoing process but I know the
03:36:33 38 police protected me in the Magistrates' Court with the
03:36:36 39 first round of subpoenas, but now we're at the Supreme
03:36:41 40 Court stage and a judge might rule differently to a
03:36:44 41 Magistrate and if that happens, I'm fucked", right? You
03:36:54 42 understood what she was saying to you there I take it?---I
03:37:02 43 can't tell you at this point in time. I didn't know her
03:37:06 44 involvement with this individual at that time.

03:37:08 45
03:37:08 46 Don't worry about - - - ?---As you can see from my
03:37:11 47 responses to her on this period of time, it was just a free

03:37:18 1 flowing narrative coming from her.
03:37:19 2
03:37:20 3 Right. What I'm suggesting to you is she's saying to you
03:37:23 4 as a lawyer she's had an involvement in a particular
03:37:26 5 witness ██████████, who's a significant witness and it may
03:37:32 6 well put her in danger of being, well, seriously harmed if
03:37:37 7 it's found out, she says, "If that happens I'm fucked", and
03:37:41 8 she's telling you that, isn't she, she's making that clear
03:37:45 9 to you?---Yes.
03:37:46 10
03:37:46 11 And she's saying to you it's a question of disclosure, "The
03:37:51 12 police protected me in the Magistrates' Court", one assumes
03:37:54 13 by making claims of public interest immunity and we've
03:37:57 14 heard a little bit about that, "But if a Supreme Court
03:38:00 15 judge takes a different view, it gets out" and she is in
03:38:06 16 all sorts of strife, do you follow that?---Yes.
03:38:09 17
03:38:09 18 She is quite clearly telling you information which would be
03:38:13 19 information, I suggest, that you should give very, and you
03:38:17 20 would have, I take it, given very serious consideration to
03:38:22 21 when it comes to making a decision as to whether or not she
03:38:25 22 should be registered as an informer, is that fair to
03:38:28 23 say?---I can't tell you what we did with that in terms of
03:38:31 24 how it factored into the assessment.
03:38:33 25
03:38:33 26 Okay?---I just don't remember.
03:38:34 27
03:38:35 28 The simple point is this, one of the things that you've got
03:38:38 29 to consider, if you register someone, is the possibility
03:38:41 30 that they will be exposed, correct?---Correct.
03:38:45 31
03:38:46 32 And if there is a possibility that a person may be exposed
03:38:50 33 in this case, in this milieu, there is a real possibility
03:38:54 34 that they will be killed, do you accept that
03:38:56 35 proposition?---Yes.
03:38:57 36
03:38:59 37 If there are obligations of disclosure, that is that if
03:39:04 38 Victoria Police in presenting evidence before a court is
03:39:08 39 obliged to produce material which may get before a court
03:39:15 40 and may need to be handed over to an accused person, that
03:39:20 41 may well expose a person to death, do you accept that
03:39:25 42 proposition?---Yes.
03:39:26 43
03:39:31 44 And then she goes on and says, that period that she was
03:39:35 45 then talking about, "There was a great pressure that
03:39:40 46 these", namely people like Carl and Tony, and you assume
03:39:43 47 she's talking about Carl Williams and Tony Mokbel, "Who

03:39:48 1 will bring on pressure, they'll bring on everyone around
03:39:53 2 them, the amazing connections they've got", and she says,
03:40:00 3 "I know sometimes it's their talk to intimidate you or to
03:40:05 4 make you think you should be paranoid", et cetera, "I can
03:40:12 5 tell you when I'm exhausted I'm more prone to, you know,
03:40:16 6 probably being paranoid. Well I shouldn't be paranoid but
03:40:20 7 things like, you know, finding out where you live, sending
03:40:23 8 crooks to your front door to threaten to kill you.
03:40:27 9 Recently my letterbox got ripped off the hinges but that
03:40:30 10 might have had something to do with the police who
03:40:32 11 obviously put my home address in a hand-up brief", right?
03:40:36 12 At that stage did you know that Mr Veniamin, Benji Veniamin
03:40:45 13 had threatened to kill her?---No.
03:40:48 14
03:40:49 15 That hadn't been conveyed to you?---No.
03:40:52 16
03:40:52 17 Did you ever receive that intelligence, that
03:40:55 18 information?---I don't know.
03:41:00 19
03:41:01 20 I take it you considered those sorts of matters, did you,
03:41:04 21 when it came to the process of deciding whether or not she
03:41:09 22 should be registered, those sorts of risks?---We did
03:41:17 23 consider the risks to her life, definitely.
03:41:23 24
03:41:23 25 Yes. Then if we go to p.23. She starts talking about the
03:41:42 26 particular client, and I've got to be careful about this.
03:41:50 27
03:41:51 28 MR HOLT: Sorry, Commissioner, I might be able to assist my
03:41:54 29 friend this time. Can I just have a moment?
03:41:56 30
03:42:14 31 MR WINNEKE: Okay. Then at p.23 - indeed p.22, she says,
03:42:35 32 "And the crooks are a massive level of paranoia, I don't
03:42:39 33 know what he's saying, or the horrific things the police
03:42:43 34 officers are listening to, phones or listening devices or
03:42:45 35 whatever, what these, for example these guys think is true
03:42:46 36 when they hear it, I turn myself inside out worrying about
03:42:52 37 what people think, but at the end of the day you can't
03:42:57 38 control what people think", do you see that at the bottom
03:43:00 39 of p.22?---Yes.
03:43:01 40
03:43:02 41 "This all began, I don't know if he's told you this story
03:43:05 42 of Darren's arrest".
03:43:08 43
03:43:09 44 MR HOLT: Sorry, can I approach my friend again? I
03:43:12 45 apologise. This is complicated one. I apologise.
03:43:16 46
03:43:17 47 COMMISSIONER: Yes.

03:43:46 1
03:43:47 2 MR WINNEKE: What this was about is that Mr Bedinarski gets
03:43:50 3 arrested, correct, and she gets - - - ?---Yes.
03:43:53 4
03:43:54 5 She gets a brief to represent him, do you understand
03:43:56 6 that?---Um - - -
03:44:02 7
03:44:02 8 That's what you were told, weren't you?---Um, I'm not sure
03:44:09 9 what you mean by gets a brief, I thought she excluded
03:44:12 10 herself from representing that individual.
03:44:14 11
03:44:14 12 She was engaged to represent him, she turned up to court,
03:44:17 13 she was going to make an application for bail but
03:44:20 14 fortunately the solicitor had failed to put in a gaol order
03:44:24 15 and he wasn't brought out to court so it didn't happen.
03:44:29 16 And that's when she was speaking emotionally to Rowe and
03:44:37 17 Mansell about her conflict that she had between
03:44:40 18 representing Bednarski and representing Mokbel?---Yes.
03:44:46 19
03:44:46 20 Now you were aware of that, weren't you?---I don't know if
03:44:49 21 I was aware of it at that time but I was made aware of it.
03:44:53 22
03:44:53 23 You'd received a brief, you had had discussions with the
03:44:56 24 MDID about it, hadn't you?---You're asking me to remember
03:44:59 25 something from 15 years ago, I just can't tell you.
03:45:02 26
03:45:03 27 The reality is you had received a briefing from the MDID,
03:45:07 28 you knew about the options that were available to have her
03:45:15 29 recruited as a source at that time, as a professional you
03:45:20 30 would have made sure as much as you could before going into
03:45:23 31 this meeting I take it?---Yes.
03:45:25 32
03:45:49 33 Then she says, "Look" - she says this, p.23 into 24 - she
03:46:17 34 said, "He doesn't have any priors" and Paul said, that's
03:46:21 35 Paul Rowe said, "No, he's a clean skin, and I thought" -
03:46:33 36 she's telling you that the way in which she gets the
03:46:39 37 engagement, that is it appears that Tony Mokbel has told
03:46:45 38 him to contact Nicola Gobbo and don't speak to anyone else,
03:46:49 39 right, that's your understanding?---Can I just read this?
03:46:57 40
03:46:58 41 Yes, just read the bottom paragraph of 23?---Okay, I've
03:47:33 42 read that.
03:47:33 43
03:47:39 44 COMMISSIONER: Yes, Mr Winneke is just speaking to Mr Holt.
03:47:42 45
03:47:43 46 MR WINNEKE: I'm sorry, Commissioner?
03:47:45 47

03:47:45 1 COMMISSIONER: I'm just explaining to the witness why no
03:47:48 2 one is talking to him.
03:47:49 3
03:47:49 4 MR WINNEKE: I apologise.
03:47:50 5
03:47:50 6 COMMISSIONER: He can't see you.
03:47:52 7
03:47:54 8 MR WINNEKE: What she says to you is, and I'm not going to
03:47:57 9 put specifics to you and I don't want you to read - I'm
03:48:08 10 going to put some words that Ms Gobbo said and some of
03:48:13 11 these can't be heard. She says that she wanted to prove a
03:48:21 12 point, do you see that, in the next paragraph, and I'm not
03:48:24 13 asking you why and how. Right? Have a look at the second
03:48:32 14 paragraph on p.24. What she's saying to you is, "Purana
03:48:48 15 took the view that I was, I was" - - - ?---I'm sorry,
03:48:52 16 Mr Winneke, I haven't read it.
03:48:54 17
03:48:55 18 Okay, righto?---Okay.
03:49:18 19
03:49:19 20 I'm going to summarise what she's saying to you there,
03:49:22 21 okay. In that paragraph she's not talking about
03:49:27 22 Mr Bedinarski, she's gone back and she's telling you what
03:49:30 23 she did previously and it's a reference to what had
03:49:33 24 occurred earlier on and why she was so petrified that
03:49:37 25 information might come out into the Supreme Court, do you
03:49:40 26 accept that?---Yes.
03:49:41 27
03:49:42 28 And she's saying to you that, "What I did, with respect to
03:49:47 29 this person, was to prove a point and that, I did it for
03:49:54 30 the purpose to prove to Purana that I wasn't a stooge", do
03:49:59 31 you see that?---Yes.
03:50:00 32
03:50:00 33 Now that's an extraordinary thing to say, isn't it?
03:50:06 34
03:50:06 35 What she's saying to you is that she did something to prove
03:50:10 36 a point to Purana, to prove she wasn't a stooge for the
03:50:14 37 likes of Mokbel and Williams, that's what she was saying to
03:50:18 38 you, wasn't it?---Yes.
03:50:19 39
03:50:20 40 If what she's saying is correct that is an extraordinary
03:50:23 41 thing to say, isn't it, as a lawyer who represented the
03:50:27 42 person she's talking about?---I'm not sure.
03:50:33 43
03:50:34 44 You're not sure? In effect what she's suggesting to you is
03:50:39 45 that she's saying to you that she did something with
03:50:44 46 respect to a particular witness not in the interests of
03:50:47 47 that witness but to prove a point to Purana?

03:50:55 1
03:50:55 2 COMMISSIONER: I suppose it's possible the two could
03:50:57 3 coincide.
03:51:00 4
03:51:00 5 MR NATHWANI: And there is a body of material that confirms
03:51:03 6 that's in fact what she says as you continue the
03:51:06 7 conversations through the transcripts.
03:51:10 8
03:51:11 9 MR WINNEKE: All right, I accept that proposition. There
03:51:12 10 might be two views that you could say, that you could have
03:51:16 11 on that sentence, do you agree with that? It might be that
03:51:19 12 she's done it in the best interests of that person, or she
03:51:22 13 might be doing it to prove that she's not a stooge, or
03:51:25 14 both?---Yes.
03:51:26 15
03:51:27 16 COMMISSIONER: Or both.
03:51:27 17
03:51:28 18 MR WINNEKE: Or both?---Yes.
03:51:29 19
03:51:29 20 In any event it's something that would give you real cause
03:51:34 21 to consider the issues with respect to her motivations and
03:51:38 22 what she was doing?---Well, it may have, I don't know. As
03:51:46 23 I say, I don't recall this and as you've pointed out it may
03:51:52 24 well be that she was acting otherwise for her client. I
03:51:56 25 don't know.
03:51:56 26
03:51:57 27 All right. It may be - - - ?---Looking at the context of
03:52:02 28 this conversation, you can see I'm not asking any
03:52:04 29 questions, this is just a free flowing narrative by her.
03:52:08 30
03:52:08 31 I understand that?---I don't think I'm making any opinions
03:52:12 32 or judgments at this particular time.
03:52:13 33
03:52:14 34 I follow that. You're certainly not telling her not to say
03:52:19 35 things or to say things, you're letting her free flow,
03:52:23 36 aren't you?---Yes.
03:52:24 37
03:52:24 38 COMMISSIONER: You're certainly not challenging the
03:52:28 39 accuracy of the transcript, are you?---Commissioner, I'm
03:52:30 40 not at this point but I'm well aware that these transcripts
03:52:34 41 are not very accurate.
03:52:40 42
03:52:41 43 MR WINNEKE: Have you listened to this or not?---No.
03:52:45 44
03:52:45 45 What I do suggest to you is that it should have highlighted
03:52:49 46 to a significant degree the very difficult issues that
03:52:52 47 would arise in future if you engage a person to act as an

03:52:58 1 informer or a human source who is representing the people
03:53:03 2 who may well be the subject of the information that she
03:53:06 3 might be providing?---Anything's a possibility but as we
03:53:12 4 discussed yesterday, the initial thought that she was in a
03:53:19 5 large circle of organised crime figures, many of which
03:53:24 6 weren't clients, that was our initial aim and so at this
03:53:28 7 point I'm just simply letting her free flow and it's just
03:53:36 8 an assessment process.
03:53:37 9
03:53:38 10 COMMISSIONER: But in letting her free flow you're
03:53:39 11 obviously listening to what she's saying in terms of making
03:53:44 12 your assessment?---Yes.
03:53:45 13
03:53:46 14 MR WINNEKE: And obviously the purpose of the exercise is
03:53:49 15 to consider the risks and benefits of having her
03:53:53 16 registered?---Yes.
03:53:55 17
03:53:55 18 It's not simply a discussion, there's an important purpose
03:53:59 19 here and that's to consider, to get information to enable
03:54:04 20 you to make a sensible decision about this?---Yes.
03:54:07 21
03:54:26 22 She then goes on and says to you - at p.30 she said to,
03:54:55 23 halfway down, she's saying to - look, perhaps if you read
03:54:59 24 it. I'll just summarise it rather than going through the
03:55:04 25 details of it. Just read - - - ?---I think I'm on p.29.
03:55:09 26
03:55:10 27 Yes, p.30 at the bottom. I'm sorry, Mr Skim?---Yes.
03:55:47 28
03:55:48 29 Effectively what she's saying to you is she was in a cleft
03:55:56 30 stick because she says when she spoke to Paul Rowe, said
03:56:00 31 she can't do the bail application because to do so she
03:56:05 32 would, in acting for the client Bednarski and to do the
03:56:09 33 best she could for him, she would have to elicit evidence
03:56:15 34 which would be contrary to the interests of Tony Mokbel.
03:56:19 35 Do you accept that proposition?---That's what she told me
03:56:22 36 on that day. I don't know if that's what she told Paul
03:56:27 37 Rowe previous to my meeting.
03:56:28 38
03:56:29 39 In any event, what she's telling you is, what she's putting
03:56:34 40 across to you is that she was clearly in a situation where
03:56:38 41 she had Tony Mokbel as a client and she was engaged to
03:56:42 42 carry out a bail application for Bednarski and she was in a
03:56:45 43 hopeless situation and she said that she wanted something
03:56:49 44 to happen to her between the office and the court so she
03:56:53 45 didn't have to do the application, do you follow that?---I
03:56:56 46 do.
03:56:56 47

03:56:57 1 And so she was saying to you that she was in a conflict
03:57:02 2 situation because she acted for Mokbel and she was being
03:57:05 3 asked to act for Bednarski?---Yes.
03:57:08 4
03:57:10 5 And indeed, to make it clear, because it appears that you
03:57:19 6 weren't entirely clear, on p.33 at the bottom you say,
03:57:26 7 "Just to go back a bit, just to make sure I understand
03:57:29 8 this, I'm not as up to speed in relation to these
03:57:33 9 investigations as I could be, your concern about
03:57:37 10 representing Darren. Yep. Cross-examining police
03:57:40 11 witnesses in relation to Darren's involvement. He had a
03:57:44 12 bail application, yes", says Ms Gobbo. "Yeah. Well that
03:57:48 13 will be, that information may come out about Tony? Yes.
03:57:56 14 And you represent Tony? Yes. And you see it as a conflict
03:58:00 15 there?" And she says, "It's a big conflict", and you say
03:58:05 16 yeah, that's your concern, that's what you're concerned
03:58:13 17 about in effect. So it couldn't be any clearer to you
03:58:17 18 really, could it? What she's saying to you is, "I act for
03:58:22 19 Mokbel. I can't act for Bednarski because there's a big
03:58:26 20 conflict", do you follow that?---Yes.
03:58:28 21
03:58:33 22 Mr Smith says, he chimes in and says, "There's a concern
03:58:38 23 from a legalistic point of view or consequences from Tony,
03:58:42 24 or is it just a legalistic point of view or is it
03:58:47 25 additional troubles from Tony" and she says, "Both". And
03:58:51 26 she says both and that's exactly the point. Maybe I wasn't
03:58:56 27 clear but she's made herself pretty clear to you at that
03:59:01 28 stage, hasn't she?---Yes.
03:59:03 29
03:59:03 30 It's quite clear to you that she's acting for Tony Mokbel,
03:59:09 31 she is his barrister and she can't act for someone else
03:59:13 32 whose interests may conflict with his and that was what
03:59:17 33 puts her in this quandary, correct?---Yes.
03:59:20 34
03:59:21 35 Is that something that you would consider, bearing in mind
03:59:26 36 that you were being told that one of the reasons that she
03:59:31 37 would be registered as a human source would be to provide
03:59:34 38 information to bring down the Mokbel clan, or at least
03:59:41 39 provide information against them, would that be a matter
03:59:43 40 which was of something of importance to you?---Probably.
03:59:50 41
03:59:50 42 What did you think at the time about that?---I have no
03:59:55 43 idea.
03:59:56 44
03:59:57 45 I mean I've asked you previously about your role as a legal
04:00:03 46 trainer and you had some understanding of the court
04:00:07 47 processes, I take it?---Yes.

04:00:11 1
04:00:13 2 Did you see that that could involve ethical difficulties
04:00:16 3 for Ms Gobbo if she went on and continued to act for
04:00:21 4 Mr Mokbel at the same time as providing information to you
04:00:25 5 against his interests?--As I've said to you previously, I
04:00:30 6 can't tell you what I was thinking at the time. You can
04:00:33 7 make assumptions about what I should have been thinking but
04:00:35 8 I just can't tell you whether that's the case. The extent
04:00:38 9 of my thinking in relation to her was that there was
04:00:42 10 information that she could give that had nothing to do with
04:00:45 11 clients and there was information which she could give
04:00:48 12 which did have relevance to her clients and to her client's
04:00:52 13 privilege and my thinking - and this, I can't tell you
04:00:57 14 exactly when this kicked in, but was as long as we stayed
04:01:02 15 clear of the privilege issue then that information was fair
04:01:06 16 game.

04:01:06 17
04:01:07 18 Right, okay. I take it what you're saying is you didn't
04:01:13 19 see any problem with her representing Mr Mokbel in court,
04:01:18 20 acting in his interests but at the same time trying to
04:01:23 21 provide evidence to you which would have him put away and
04:01:26 22 put into custody, didn't see any issue with that at that
04:01:29 23 stage?--Well, as I said to you, I can't remember what I
04:01:33 24 was thinking specifically at that stage.

04:01:35 25
04:01:35 26 All right. Now, the conversation goes on. That particular
04:01:42 27 issue, though, did you have any discussions with any more
04:01:47 28 senior officers shortly after this meeting about these
04:01:51 29 sorts of issues that she was raising in this meeting?--I
04:01:57 30 don't know.

04:01:58 31
04:01:58 32 Do you think you would have, as a general proposition, had
04:02:01 33 some discussions with more senior officers to deal with
04:02:06 34 these sorts of problems or these issues?--I know that I
04:02:10 35 did have meetings with more senior officers after this
04:02:13 36 particular meeting.

04:02:14 37
04:02:14 38 Yes?--But my memory can't help you so I don't know what
04:02:24 39 else I can say.

04:02:25 40
04:02:25 41 All right, okay. Do you believe that you would have raised
04:02:31 42 this at least potential conflict of interest with any other
04:02:35 43 person?--I don't know.

04:02:39 44
04:02:40 45 Just thinking about it now, do you think it's something
04:02:42 46 that would have been sufficiently significant to raise it
04:02:47 47 with someone else or would you not have considered it of

04:02:50 1 any importance and therefore you wouldn't have raised
04:02:53 2 it?---I don't know if at that time we were just simply
04:02:58 3 thinking that it was her network of social contacts.
04:03:02 4
04:03:02 5 Right?---That would be the value. I don't know whether I
04:03:09 6 was actually consciously thinking then that she would be
04:03:13 7 talking about clients.
04:03:15 8
04:03:15 9 Right. Okay. But what your understanding was, what you'd
04:03:23 10 been told was that Tony Mokbel was her client, you knew
04:03:27 11 that?---Yes, in this conversation, yes.
04:03:30 12
04:03:31 13 The whole point of this conversation was to find out as
04:03:33 14 much information as you could about Mr Mokbel?---Yes.
04:03:36 15
04:03:37 16 Because you said before, "Tell us everything you can about
04:03:40 17 him", right?---Yes.
04:03:41 18
04:03:42 19 And then, even if you didn't know before, she made it quite
04:03:46 20 clear to you that she was actually acting for him. Did you
04:03:51 21 then think to yourself, "Maybe I shouldn't be getting
04:03:53 22 information about Mr Mokbel"?---I don't know what I was
04:03:57 23 thinking, Mr Winneke.
04:03:58 24
04:03:59 25 In any event, on p.53 - - -
04:04:29 26
04:04:29 27 MR HOLT: Commissioner, can I approach my friend? I should
04:04:35 28 say we were given some very helpful references yesterday
04:04:41 29 but this wasn't one of them. Thank you, Commissioner.
04:04:46 30
04:04:52 31 MR WINNEKE: If you'd just have a look at p.53. What do
04:05:30 32 you understand her to be saying to you there?---I think
04:05:37 33 that's a reference to her suggesting that Tony Mokbel
04:05:42 34 wanted to bribe a policeman to get some tapes.
04:05:46 35
04:05:47 36 Yes. She's saying that, "We'll attack police officers who
04:05:55 37 put, turn the tapes on, turn the tapes off, so talking
04:06:00 38 about Miechel and Miechel will be his current target
39 because he thinks he can get to Miechel and somehow get to
04:06:06 40 find some way of getting to those tapes and I wouldn't have
04:06:07 41 thought that that is a good, for you guys to, there's some
04:06:11 42 police somewhere and it's not that difficult to investigate
04:06:15 43 him watching". What she's doing there is, firstly she's
04:06:19 44 saying something about the plan of attack with respect to
04:06:21 45 the way in which Mr Mokbel might deal with charges that are
04:06:25 46 currently against him. So the first part of it is, "We'll
04:06:31 47 attack Miechel" and at that stage Miechel in effect was

04:06:35 1 damaged goods, wasn't he?---Would I be able to see p.52?
04:06:43 2
04:06:43 3 Yes, by all means. Just bear in mind there's a name there
04:06:54 4 that you shouldn't mention?---Okay.
04:06:59 5
04:06:59 6 Do you see that?---No, not yet. And can I go to p.53,
04:08:11 7 please?
04:08:11 8
04:08:12 9 Yes, by all means?---Okay.
04:08:59 10
04:09:01 11 She's previously told you that Mr Mokbel was going to try
04:09:09 12 and find someone to deal with the tapes or get rid of the
04:09:12 13 tapes and that the way in which he's going to attack the
04:09:18 14 charges, I suggest to you, is, one, by attacking the police
04:09:23 15 officers, but then also there's some suggestion that he
04:09:28 16 might be able to get rid of the tapes as well, do you
04:09:31 17 follow that?---Yes, yes.
04:09:32 18
04:09:33 19 In effect what she's doing is both telling you how he's
04:09:37 20 going to deal with his charges on one view improperly or
04:09:41 21 illegally, and on another view, in terms of his defence,
04:09:46 22 this is what he'll do, he'll attack the police officer's
04:09:51 23 credit and so forth, do you agree with that?---Yes.
04:09:53 24
04:09:53 25 So she's giving you information about the way in which
04:09:56 26 Mr Mokbel proposes to deal with current charges,
04:09:59 27 right?---Yes.
04:09:59 28
04:10:05 29 Then if we move on. She tells you, she starts talking
04:10:12 30 about, I suggest to you, the background that she has
04:10:15 31 working for Mr Mokbel, how she had been briefed initially
04:10:20 32 by a particular solicitor back in about - for Mokbel's
04:10:26 33 brother back in 2000 and, early 2000s, right. She told you
04:10:36 34 those things I suggest?---What page are we on now,
04:10:41 35 Mr Winneke?
04:10:42 36
04:10:42 37 I'm just going to ask you to accept the proposition rather
04:10:45 38 than going through each page of it, but what I'm suggesting
04:10:49 39 to you is she told you that she acted initially for the
04:10:53 40 brother, that she was introduced to Mokbel and that she had
04:10:57 41 been acting for Mokbel for some time, correct? Do you
04:11:03 42 accept that?---Well, I can't remember that and I can't see
04:11:10 43 the transcript. You're asking me to agree with your
04:11:13 44 proposition.
04:11:16 45
04:11:16 46 COMMISSIONER: Your counsel has a copy. I understand what
04:11:18 47 you're saying, Mr White, but your counsel has a copy of the

04:11:21 1 transcript. So I think you can assume that if no one says
04:11:24 2 it's inaccurate, it's an accurate description.
04:11:29 3
04:11:29 4 MR CHETTLE: Again I don't want to mix in, Commissioner,
04:11:31 5 but the problem is that's not how she says in the
04:11:35 6 transcript how she met him. It's as simple as that.
04:11:39 7
04:11:39 8 COMMISSIONER: You'll have to go to the transcript then,
04:11:41 9 Mr Winneke.
04:11:42 10
04:11:42 11 MR CHETTLE: It's the bit about the Crown witness.
04:11:46 12
04:11:47 13 MR WINNEKE: She met him originally because - I'm reminded
04:11:52 14 - she was acting I think for his brother. She took him to
04:11:55 15 the registry of the Magistrates' Court and she witnessed a
04:12:04 16 surety being given and ultimately she ended up being a
04:12:07 17 witness against him I think in the Federal, in a criminal
04:12:12 18 proceeding, do you recall that?---No.
04:12:14 19
04:12:19 20 In any event she ended up acting for him, do you accept
04:12:23 21 that?---Yes.
04:12:25 22
04:12:29 23 And were you aware that about the time that she was
04:12:33 24 speaking to you she was currently involved in preliminary
04:12:36 25 arguments in the Supreme Court on his behalf in relation to
04:12:41 26 drug charges?---No.
04:12:43 27
04:12:47 28 If it's apparent from the transcript that that was the
04:12:49 29 case, would you accept that?---Yes.
04:12:52 30
04:12:53 31 All right, okay. Do you accept that during the course of
04:12:59 32 the discussion that you had with her she made it - just
04:13:09 33 excuse me - she said to you that - I withdraw that. That
04:13:42 34 she had genuine concerns about Mr Mokbel and if the
04:13:52 35 information came out that she was assisting police then she
04:13:55 36 could be in difficulties?---Yes.
04:13:58 37
04:14:05 38 And at p.65 did she say to you, "Really, I've had enough"?
04:14:20 39 Go to the bottom of 65. "It's not about me saying I don't
04:14:25 40 need help because of whatever I just want" - - -
04:14:28 41
04:14:30 42 COMMISSIONER: Sorry, no, "It's not about me saying I need
04:14:33 43 help".
04:14:33 44
04:14:34 45 MR WINNEKE: "I need help because of whatever, I just want,
04:14:35 46 I've had it". Over the page, "And I don't know a way out".
04:14:50 47 Right. And you say, "Well that's, that's what I want to

04:14:54 1 get to now". All right?---Yes.

04:15:00 2

04:15:05 3 And you say that, "Tony and the others" and there's a bit
04:15:11 4 of it which we can't hear, "They're significant players,
04:15:14 5 significant. That's why nothing will ever happen to Tony
04:15:19 6 because no one will ever knock him off his perch, even
04:15:23 7 though he owes stacks of money everywhere. Because
04:15:29 8 everyone knows you kill him the brothers will kill you".
04:15:32 9 You say, "Have you had much contact with the brothers?" .
04:15:36 10 Other than that you mention with Horty. And you then ask
04:15:43 11 her about recent contact and historical and she tells you a
04:15:47 12 little bit about that. You ask if she represents Kabalan
04:15:55 13 and she says, "I will be, I probably will be, depending on
04:16:00 14 whether Tony's trials are on. See, that's the real
04:16:05 15 problem, they're listed at the same time", do you see
04:16:09 16 that?---Yes.

04:16:10 17

04:16:10 18 I take it that's something that you would have considered,
04:16:12 19 that she's acting not just for Tony Mokbel but the brothers
04:16:17 20 as well, or at least that one, do you follow that?---Well,
04:16:23 21 no, because I asked her directly, "Do you represent
04:16:26 22 Kabalan?" And she says, "I will be, I probably will be",
04:16:29 23 so at that point the interpretation would be that she
04:16:33 24 wasn't, surely.

04:16:34 25

04:16:36 26 What she said is that she will be. Can I ask you this:
04:16:41 27 did you ever make a list of the people for whom she was
04:16:46 28 acting and what she was doing in relation to those
04:16:50 29 people?---No.

04:16:51 30

04:16:53 31 Can I ask you why you didn't?---I didn't think of it. It's
04:16:58 32 something I have been thinking about a lot and in hindsight
04:17:02 33 I wish we had have compared a list and kept it updated over
04:17:07 34 the period of time that we were with Ms Gobbo.

04:17:10 35

04:17:11 36 You say with hindsight it would have been a very beneficial
04:17:14 37 thing to do, wouldn't it?---Yes, it would have been.

04:17:17 38

04:17:17 39 I note the time, Commissioner.

04:17:19 40

04:17:19 41 COMMISSIONER: Sure. We'll adjourn now until 2 o'clock.

04:17:22 42

04:17:22 43 <(THE WITNESS WITHDREW)

04:17:23 44

04:17:23 45 LUNCHEON ADJOURNMENT

04:17:23 46

05:13:34 47

1 UPON RESUMING AT 2.00 PM:
2
05:23:51 3 COMMISSIONER: Yes Mr Chettle.
05:23:52 4
05:23:53 5 MR CHETTLE: Commissioner, I believe you've been provided
05:23:55 6 with a confidential affidavit from this witness prepared
05:23:57 7 and dated today. It's with your - I tender that. I've
05:24:07 8 shown it to Mr Winneke. I've shown it to Mr Holt. Other
05:24:13 9 than that I tender it to you on a confidential basis,
05:24:16 10 Commissioner.
11
05:24:17 12 COMMISSIONER: Yes, thanks Mr Chettle.
05:24:20 13
05:24:27 14 #EXHIBIT RC294 - Confidential affidavit of Sandy White.
15
05:24:34 16 COMMISSIONER: Yes Mr Holt.
05:24:35 17
05:24:36 18 MR HOLT: Can I raise an issue in terms of the ICRs. I
05:24:38 19 hate to return to them from this morning. I had indicated
05:24:41 20 this morning that the way in which the PDFed versions of
05:24:46 21 the ICRs had been put on to Loricated was as a result of
05:24:50 22 folders of them being found. The Commissioner will recall
05:24:52 23 that. What we have in the Commission room presently in
05:24:54 24 fact those original documents which are the most original
05:24:56 25 form of them. It had been my proposal to ask the
05:24:59 26 Commissioner whether the Commission would want to accept
05:25:02 27 those by way of production as an original document. They
05:25:06 28 have all been produced electronically already. I think,
05:25:09 29 having spoken to Mr Winneke, that perhaps the preference is
05:25:13 30 not to do that immediately but I should say we are content
05:25:14 31 to do that or we can indicate they will be held in secure
05:25:17 32 storage and be available to be delivered to the Commission
05:25:20 33 at any time the Commission wishes to have those original
05:25:23 34 set of documents.
35
05:25:24 36 COMMISSIONER: Thanks Mr Holt. Mr Winneke, are you content
05:25:26 37 with that, to follow that process?
38
05:25:29 39 MR WINNEKE: Yes, I am, Commissioner.
05:25:30 40
41 MR HOLT: So we'll leave it and keep them in secure
05:25:32 42 storage, Commissioner, but we're in a position to deliver
43 them whenever the Commission requires.
44
05:25:36 45 COMMISSIONER: Yes, thank you. I should mention, Mr Holt,
05:25:38 46 there is an email that has been sent earlier this
05:25:40 47 afternoon.

05:25:40 1
05:25:40 2 MR HOLT: Commissioner, I don't wish to advance that matter
05:25:45 3 now, I'll only do so when I'm in a position to do so
05:25:47 4 properly .
5
05:25:51 6 COMMISSIONER: Yes, I just wanted to make sure that it
05:25:54 7 wasn't being ignored.
8
9 MR HOLT: No, we understand, Commissioner. No. Thank you,
10 Commissioner.
11
12 COMMISSIONER: Thank you. Yes, Mr Winneke.
13
05:25:59 14 MR WINNEKE: Mr White, are you there?
15
05:26:01 16 COMMISSIONER: I think we hung up.
05:26:06 17
05:26:06 18 <SANDY WHITE, recalled:
19
05:26:18 20 COMMISSIONER: Yes, hello. Yes, Mr White, can you hear me?
05:26:26 21 We can't hear you I'm afraid?---Is that better?
22
05:26:29 23 That's one hundred better, thank you. Yes, Mr Winneke.
24
05:26:34 25 MR WINNEKE: Thanks, Commissioner. Mr White, I was asking
05:26:36 26 you questions about your interview with Ms Gobbo on 16
05:26:39 27 September and I think I was last asking you questions about
05:26:44 28 matters on p.67, which is .0068. If we can perhaps put
05:26:53 29 that up. I asked you about Kabalan Mokbel, that's one of
05:27:16 30 the Mokbel brothers, I take it you understand that?---Yes.
31
05:27:22 32 Ms Gobbo said she had some difficulties with respect to the
05:27:25 33 trials. She was of the view that she would be acting for
05:27:32 34 him depending on when the trials were listed. And she then
05:27:35 35 goes on and says this, she says that, "And from the same
05:27:44 36 point of view Tony's got no money at the moment because
05:27:48 37 everything's restrained so maybe Kabalan hasn't got any
05:27:53 38 either. I thought I don't think I can appear for Kabalan
05:27:58 39 because I act for a person [REDACTED]".
05:28:04 40 Right?---Yes.
41
05:28:06 42 Do you know that?---Yes.
43
05:28:10 44 She was making it clear that she acted for that person. If
05:28:15 45 we go over the page, she says, "He's a fellow, he has, he
05:28:22 46 and I have some similarities", and you understand what
05:28:27 47 she's saying because you say, "He's a bit worried, is he?"

05:28:32 1 She says, "Worried? He's a man who could have sold all of
05:28:40 2 them out, he could have, you know, he really could have put
05:28:44 3 everyone in gaol for a long, long time but he wouldn't do
05:28:48 4 it". And then she says, "Wouldn't do it and you guys
05:28:57 5 probably had a brief". You say, "Does he still think about
05:29:03 6 it or has he made up his mind?" You say, "Well we talk
05:29:11 7 about it? I talk to him about it from time to time. There
05:29:14 8 was a moment when I did speak to [REDACTED] for him". I suggest
05:29:18 9 that that's a reference to [REDACTED]?---Yes.
10
05:29:22 11 And you knew that, right?---Oh, I would think so.
12
05:29:33 13 You're testing the waters a bit, you're wondering whether
05:29:37 14 [REDACTED] might be prepared to, in effect, give evidence or
05:29:44 15 at least assist the police?---That's probably a
05:29:50 16 consideration.
17
05:29:51 18 Right. Obviously bearing in mind the exercise or the
05:29:57 19 object of the exercise is to deal with the Mokbels, then it
05:30:08 20 may well be significant if this particular person might
05:30:11 21 assist you in that regard?---Yes.
22
05:30:17 23 Clearly you're aware, because she said so, that he's a
05:30:21 24 client of hers?---Yes.
25
05:30:26 26 Are you aware that when Ms Gobbo first spoke to Mr Mansell
05:30:31 27 and Mr Rowe that she mentioned that she would be willing to
05:30:36 28 talk - that she might be willing to talk to Dale
05:30:39 29 Flynn?---No.
30
05:30:43 31 None of those people told you that?---I just can't tell you
05:30:49 32 now.
33
05:30:50 34 Yeah, okay?---That doesn't ring any bells with me.
35
05:30:52 36 Yeah, okay. In any event, if we go on down the page,
05:31:01 37 without going into any detail about it, you continue that
05:31:05 38 discussion about whether that might be a possibility and
05:31:09 39 she describes the various difficulties that he has. If we
05:31:14 40 go over to the next page, you say this, "Tell me this, as
05:31:24 41 far as - I asked you before what your best case scenario
05:31:26 42 was and it was getting out". Then she says, "Yeah, I think
05:31:32 43 I got off track. I would like to go back to the way it
05:31:35 44 was, which was no pressure, no paranoia. Not worried about
05:31:39 45 what he thinks of me when I get to court or" - she's
05:31:45 46 referring to, I suggest, it's reasonably apparent that
05:31:48 47 she's referring to Tony Mokbel, do you accept that?---Yes.

05:31:53 1 "There are too many drug briefs. I can tell you who most
05:31:58 2 drug traffickers are. I've listened to telephone
05:32:01 3 intercepts that in the brief are unidentified male.
05:32:05 4 Whether they're unidentified male because you guys do it on
05:32:08 5 purpose, I suppose sometimes you do, or because they're
05:32:13 6 really unidentified. It alarms me that I can work out who
05:32:16 7 they are". What she seems to be saying is that she can
05:32:22 8 provide you with information that would be of assistance to
05:32:29 9 you, right?---Are you suggesting that she's offering to
05:32:35 10 identify unidentified males on police briefs or
05:32:39 11 transcripts?
12
05:32:41 13 Well, on one view that what's she doing, she's saying that
05:32:45 14 she could do that?---I don't think - I certainly don't
05:32:50 15 think that was something she was suggesting she would do.
16
05:32:53 17 She certainly says she's got the capacity to do that?---She
05:32:56 18 does, and she maintained that throughout the relationship,
05:32:58 19 that she could easily pick up things.
20
05:33:02 21 Yeah?---In briefs.
22
05:33:04 23 So in her role as a barrister she's had access to lots of
05:33:08 24 tapes, she's listened to lots of transcripts, telephone
05:33:12 25 intercepts, rather, and she can provide information in
05:33:16 26 effect to fill in gaps?---I don't think she was offering
05:33:20 27 it.
28
05:33:22 29 Well whether or not - - - ?---As you say. I don't think
05:33:25 30 she was offering that. I think she was saying she can
05:33:28 31 easily work out who these people are.
32
05:33:30 33 Whether or not she was offering it, this was part of your
05:33:33 34 process, to find out what information she might be able to
05:33:36 35 provide?---Well it's a general assessment, yes, but I'm
05:33:40 36 saying to you that I didn't - I've certainly got no
05:33:45 37 recollection of thinking that that was an offer of
05:33:48 38 assistance in that respect.
39
05:33:49 40 Right, okay. All right. In any event, she goes on. She
05:34:02 41 talks about saying, if you go over the page, she says,
05:34:07 42 "I've read too many of these briefs and I've had it but
05:34:11 43 have I had it with the law or have I had it with the people
05:34:16 44 that I'm acting for? I don't think it's the law, I think
05:34:18 45 it's the people". So she's telling you, "I'm acting for
05:34:23 46 people and I've had enough of them", right?---That's right.
47

05:34:33 1 If we go over to p.72. She says that - at the top of the
05:34:54 2 page, "I'm increasingly alarmed about my own exposure and
05:35:00 3 assumptions", then obviously there's some of the tape that
05:35:04 4 we can't hear, I'm sorry, that can't be transcribed,
05:35:07 5 "because I do care at the end of the day what people
05:35:10 6 think". That was a feature, I take it, that seemed to be
05:35:23 7 common throughout many of the dealings that you had with
05:35:25 8 Ms Gobbo, she appeared to be concerned about her own
05:35:29 9 reputation and what people thought of her, didn't
05:35:31 10 she?---Yes.
11
05:35:36 12 It goes on to say - you go on to say, "I can tell you this
05:35:40 13 with a great deal of certainty, there's very little I
05:35:43 14 wouldn't tell you I suppose during the course of our
05:35:44 15 relationship, depending on how long it goes, but I can tell
05:35:48 16 you that your relationship with Tony and the others only
05:35:51 17 can have one ending. Well it can actually have two". What
05:35:56 18 were you - what endings were you talking about?---I think
05:36:01 19 if we can continue with the transcript it should say.
05:36:08 20 Certainly one of them was I thought she might get killed.
21
05:36:11 22 Yes. The other one - well, ultimately she seems to
05:36:17 23 anticipate what you're going to say, doesn't she?---I'd
05:36:22 24 have to read the transcript. Sorry, I've lost - - -
25
05:36:27 26 You say - - - ?---I've lost the part.
05:36:30 27
05:36:31 28 - - - "I can tell you that your relationship with Tony and
05:36:34 29 others can only have one ending. Well it can actually have
05:36:36 30 two, but both of them" - ultimately what you start talking
05:36:41 31 about is death or going into gaol, do you agree with
05:36:47 32 that?---I don't agree with the going into gaol.
33
05:36:52 34 Just let's - - - ?---Certainly death
05:36:55 35
05:36:55 36 MR CHETTLE: It's not him - sorry, Commissioner, you
05:36:58 37 invited me to object. It's not he who says that, it's her
05:37:02 38 who says that.
39
05:37:04 40 MR WINNEKE: I accept that. In fact I put it to the
05:37:06 41 witness, that ultimately that's what started the
05:37:08 42 discussion. I invited the witness to offer what he was
05:37:12 43 talking about.
44
05:37:13 45 COMMISSIONER: Mr Winneke, quicker to just go to the
05:37:15 46 transcript I think.
47

05:37:19 1 MR WINNEKE: She says, "Couldn't agree more, because look
05:37:22 2 at anyone who's had any sort of relationship with them, it
05:37:25 3 only ends in one of two ways". You say, "Yeah, yeah,
05:37:29 4 there's a pretty solid past history of outcomes for people
05:37:33 5 but I think it can be", and you say, "but the thing that
05:37:36 6 I've got , the thing I've got", and she says, "I think it
05:37:39 7 can be, I hope that it won't be one of those two endings,
05:37:42 8 the same two you're thinking of. One is gaol or two is
05:37:46 9 death". So they seem to be the things that you were
05:37:50 10 thinking of but you say, "Probably not in that order". I'm
05:37:56 11 not too sure how it would end with death first and then
05:38:00 12 gaol but anyhow, you're thinking of the same thing; aren't
05:38:03 13 you?---I need to read some more of the transcript.
14
05:38:07 15 Well, fine with me?---She's the one that says death or
05:38:11 16 gaol. I just need to read it to see whether I agree that's
05:38:17 17 what I was thinking.
18
05:38:26 19 You certainly don't disagree, do you, with what she
05:38:28 20 says?---No.
21
05:38:35 22 In effect you really are quite happy to agree with it, it
05:38:41 23 seems, I suggest?---Well I don't know whether I'm happy
05:38:46 24 about it. I think it was just stated as a point of
05:38:49 25 reality.
26
05:38:50 27 Why was it a point of reality? I mean you've got - you're
05:38:54 28 dealing with a barrister who acts for clients and you're
05:39:00 29 suggesting it's a point of reality that she's either going
05:39:03 30 to end up dead or in gaol. Why do you say it's a point of
05:39:06 31 reality?---Well, I had no doubt that the Mokbels had the
05:39:15 32 capacity to kill people.
33
05:39:16 34 Yes?---And she was in fear of them already.
35
05:39:21 36 Yes?---In great fear of them. So I don't think it's a
05:39:27 37 stretch to think that she could have ended up being killed
05:39:30 38 for not doing what they wanted.
39
05:39:33 40 Yes?---In relation to gaol, I don't honestly remember what
05:39:36 41 that would have been about except for the fact that she was
05:39:40 42 getting used by those people and she was, it became very
05:39:45 43 clear over the course of the relationship that she was
05:39:47 44 getting used as a post box and person to pass on messages
05:39:51 45 and disposable phones and all sorts of things. I'm not
05:39:57 46 sure what her state of knowledge was about that at the
05:40:00 47 time.

1
05:40:00 2 Yes?---Whether that was the reason why the goal was
05:40:03 3 mentioned. But I don't think it's an unrealistic
05:40:07 4 statement.
5
05:40:08 6 Right. What you did know is that she'd approached two Drug
05:40:14 7 Squad officers, obviously upset and emotional. I think you
05:40:17 8 probably are aware that she was in tears?---Yes.
9
05:40:20 10 She found herself in a difficult position legally in terms
05:40:23 11 of there being a conflict between someone who quite
05:40:27 12 apparently was a significant client of hers, Mr Mokbel,
05:40:31 13 right, and another person who wasn't a significant client
05:40:34 14 but had asked her to act for him?---Yes.
15
05:40:39 16 On one view that's not a particularly difficult issue for a
05:40:47 17 barrister who acts appropriately and ethically and that is
05:40:50 18 you simply don't accept a brief?---That's one view but I
05:40:58 19 don't think you're considering the hold that the Mokbels
05:41:02 20 had over her.
21
05:41:03 22 Yes, well - - - ?---I think that was probably a greater
05:41:07 23 factor for her in terms of her emotional state.
24
05:41:10 25 She was clearly a very emotional person and you witnessed
05:41:13 26 that on many occasions throughout your dealings with
05:41:15 27 her?---Yes.
28
05:41:16 29 And she was, certainly in this circumstance, you'd accept
05:41:21 30 that she was expressing to you that she suffered or she was
05:41:28 31 experiencing difficult emotions about all this, wasn't
05:41:33 32 she?---When you say she was experiencing difficult
05:41:39 33 emotions, as you say, I was aware she was upset and had
05:41:43 34 been crying when she approached the Drug Squad detectives.
35
05:41:47 36 Yes?---And then the conversation that we've had up until
05:41:52 37 this point, we touched on the stroke and the fact it was
05:41:56 38 brought on by the pressure of her work and dealing with the
05:42:00 39 Mokbel people.
40
05:42:01 41 Yes?---And so I think she was entitled to be, if you like,
05:42:08 42 emotional. She had some very - she was scared, there's no
05:42:11 43 doubt about that.
44
05:42:12 45 What did you mean when you said "it can only end in one of
05:42:17 46 two ways"?---Well how can I say any more than what's been
05:42:25 47 said? I told her I thought it would end up in her being

05:42:30 1 dead.
2
05:42:30 3 Or in gaol?---Or in gaol.
4
05:42:32 5 That's what you were thinking, that's what you were going
05:42:34 6 to say to her but she beat you to the punch?---You have
05:42:41 7 already asked me about this and I've answered the question.
05:42:43 8 In relation to gaol, I'm not sure of its point. It may
05:42:46 9 well have been that I had information suggesting that she
05:42:49 10 was too close to certain crimes, but I don't know at this
05:42:52 11 point. But I do know that the Mokbel people were involved
05:42:55 12 in gangland murders, it was all over drugs, and she was
05:43:00 13 involved in it in a much greater capacity than as a
05:43:09 14 professional lawyer.
15
05:43:10 16 Do you believe you were there to offer her some advice or
05:43:14 17 assistance?---Well that's - I don't know that you could say
05:43:18 18 that's the purpose of my meeting. The purpose of my
05:43:22 19 meeting was to assess her in terms of what access she has
05:43:24 20 to people that the investigators were interested in.
21
05:43:27 22 Yes?---And also, you know, if we do go ahead with that sort
05:43:31 23 of relationship how it would possibly work. This
05:43:34 24 assessment goes on for quite - not just this one, it's
05:43:37 25 quite a lengthy process.
26
05:43:40 27 Yes?---So I'm just listening to what she has to say. I
05:43:44 28 think the record's pretty clear that she's doing most of
05:43:47 29 the talking and we're just listening.
30
05:43:50 31 Okay. You weren't there to persuade her to do any
05:43:54 32 particular thing, were you?---Well at that point, no,
05:43:58 33 because we didn't know what she could do.
34
05:44:01 35 Right. What you'd say is, "I certainly wasn't trying to
05:44:05 36 persuade her or put any pressure on her to become an
05:44:11 37 informer"?---No, I wouldn't say that I didn't do that. I'm
05:44:17 38 just saying the purpose was not there and then to talk her
05:44:20 39 into being a human source. The purpose was just to assess
05:44:26 40 her in regards to the potential to be a human source.
41
05:44:30 42 Do you accept that you were trying or you did use
05:44:33 43 endeavours to try and persuade her to come on board, if I
05:44:36 44 can use that expression?---I don't know but I would imagine
05:44:43 45 when you look at the transcript, we were probably trying to
05:44:49 46 build rapport with her at that point. It's pretty stock
05:44:53 47 standard for those sort of meetings. I haven't answered

05:44:57 1 your question. I'm not sure that I was actively trying to
05:45:01 2 persuade her, because at that stage we didn't know if she
05:45:05 3 was going to be a source.
4
05:45:07 5 Do you think it would be wrong to try and persuade someone
05:45:10 6 to become a source?---Well that's dependent on so many
05:45:17 7 factors, Mr Winneke.
8
05:45:18 9 Just as a general proposition?---The first is - I think it
05:45:21 10 depends on your belief about the potential for that person
05:45:27 11 to be an effective source.
12
05:45:30 13 Yes?---If I held that belief then I would have tried to
05:45:34 14 persuade somebody, yes. But at this particular point in
05:45:37 15 time, I keep saying this, it's an assessment.
16
05:45:40 17 Right. If we go over to the next page, we see at p.75
05:45:59 18 she's talking about the pressure that could be relieved -
05:46:06 19 I'll go back. "He's going to fight a trial free from
05:46:10 20 custody because his access to be able to speak to people is
05:46:13 21 massively cut off. I mean you will monitor every call,
05:46:17 22 every visit, he'll be in Acacia presumably with everyone
05:46:20 23 else. I think that's what he will do. He could plead.
05:46:23 24 Things would change. God, it would relieve so much
05:46:27 25 pressure off me because you're only allowed to ring between
05:46:31 26 9 and 3.15", right?---I can see that.
27
05:46:38 28 In fact, I apologise, I'll go back. I meant to take you to
05:46:42 29 another. Go to p.73. You having made the suggestion, and
05:46:54 30 she having apparently anticipated what you were talking
05:46:57 31 about, you've said, "Probably not in that order". Then she
05:47:02 32 says this, "Look, ideally what would be fantastic would be
05:47:06 33 you arrest him, ideally, that would be - I know it's a
05:47:10 34 terrible, terrible thing to say to anyone, but - and that's
05:47:14 35 what I mean. I thought that that was going to happen,
05:47:17 36 probably not now, but back - and that his case ends up
05:47:21 37 finishing or he gets charged with somebody else and he's
05:47:24 38 then put in a position where he's never going to get bail
05:47:27 39 because it's strong enough and big enough and serious
05:47:30 40 enough that he'll never get bail and then he'll plead", and
05:47:39 41 she - and it's said to him by Mr Smith over the page, "Has
05:47:48 42 he ever discussed pleading, or this is a belief you have?
05:47:52 43 No, he won't plead, he'll never plead. It's ego for him".
05:47:57 44 Do you think what was being sought by Mr Smith there was
05:48:00 45 for privileged information or instructions?---No.
46
05:48:06 47 "Has he ever discussed pleading or is this a belief you

05:48:09 1 have?" Do you think that's seeking to find out some
05:48:16 2 confidential information that would be privileged between a
05:48:18 3 lawyer and a client?---I don't think that was Mr Smith's
05:48:25 4 intention.
5

05:48:32 6 "Has he ever discussed pleading?" Is that a question which
05:48:36 7 seeks to elicit information that would normally be
05:48:38 8 privileged between a lawyer and a client?---It is
05:48:40 9 information that does touch into that area, I agree with
05:48:43 10 that, but I don't think that was Mr Smith - sorry,
05:48:47 11 Mr Smith's - - -
12

05:48:49 13 COMMISSIONER: Strike that from the record?---Thank you.
05:48:53 14 Mr Smith's intention. I think he's just simply following
05:48:57 15 on from her statement about what she would have like to
05:49:00 16 have happened, which would have got her out of the clutches
05:49:04 17 of those people.
18

05:49:06 19 MR WINNEKE: It looks for all the world like someone trying
05:49:11 20 to intervene and pry into the sorts of information that
05:49:13 21 would only come between a lawyer and a client privately.
05:49:16 22 You were sitting there and you heard him ask that question,
05:49:21 23 right?---Yes.
24

05:49:22 25 It seems that it's elicited an answer which probably could
05:49:25 26 well be regarded as confidential or privileged information,
05:49:30 27 "No, he won't plead, he'll never plead". I suppose it
05:49:34 28 could have been said right there and then, "Look, you can't
05:49:37 29 tell us and we don't want to have any information which is
05:49:39 30 legally privileged information", you could have said that,
05:49:43 31 couldn't you?---I could have.
32

05:49:44 33 You didn't, did you?---No, not on that occasion but I did
05:49:49 34 on many other occasions.
35

05:49:52 36 One assumes it's relatively important to set the ground
05:49:56 37 rules early in a relationship I assume?---It's very easy to
05:50:00 38 analyse this conversation with the benefit of hindsight
05:50:04 39 having it set out in front of you here. But at the time
05:50:08 40 it's not quite so easy to pick up all the flags and deal
05:50:12 41 with them in the best way you would have liked in
05:50:15 42 hindsight.
43

05:50:16 44 Can I say this, Mr White, I mean without being overly
05:50:20 45 critical, there were some fairly fundamental issues in play
05:50:24 46 here, some fairly significant information which was quite
05:50:28 47 obvious: she's the barrister, he's the client,

05:50:31 1 information's being sought about whether or not he might
05:50:35 2 plead and she's offering that sort of information. That's
05:50:38 3 not particularly difficult for a person who understands
05:50:42 4 basic principals concerning the law, is it?---It's not
05:50:49 5 difficult to understand but I think, as I said, it's very
05:50:53 6 easy looking at the transcript to make these assessments at
05:50:58 7 the time. All I was doing was listening.
8
05:51:01 9 All right?---We were assessing. Now clearly that has been
05:51:04 10 missed but I think the record clearly shows that I and the
05:51:09 11 staff at SDU had a great appreciation for privileged
05:51:17 12 information.
13
05:51:17 14 Okay, we'll go on. In any event, if we go back to where I
05:51:20 15 was before. Effectively she's saying, "Look all of this is
05:51:23 16 knocking my health around. You see, problems with - look,
05:51:29 17 I've created this mess for myself I think, because I need
05:51:32 18 to know, I think I need to know what's going on about
05:51:35 19 Carl". What she's saying is that she's got health issues,
05:51:48 20 right?---Yes.
21
05:51:52 22 And this is causing her all sorts of difficulties. You go
05:52:00 23 on and say this. If you go to p.77 there's discussion
05:52:20 24 about proceedings that are going on. She says at the top
05:52:32 25 of the page, "I'm too scared to give him a bill now for the
05:52:36 26 last six appearances in the Supreme Court and everywhere
05:52:40 27 else because he's got no funds. His source of funds has
05:52:44 28 just been restrained a few weeks ago. I can't, if he had
05:52:48 29 cash, I can't take it because I can't, I can't make the
05:52:52 30 inquiry. He's in breach of the law if he has possession of
05:52:55 31 cash", right? And you say this - I'll go on. She says,
05:53:08 32 "So even if he, even if he even got a form of payment from
05:53:13 33 a cheque or any more or produce cash, I can't take it.
05:53:16 34 We're just, we're fast reaching the end of the line with
05:53:19 35 him but I'm just not sure it's going to happen because of
05:53:22 36 the way things have been set up. It seems the Supreme
05:53:25 37 Court might end up adjourning his trial". You say this,
05:53:30 38 "If we take what you say is correct, and that is the best
05:53:34 39 way to deal with him for you is that he gets locked up,
05:53:42 40 that is, if the best way for you is that he gets locked up,
05:53:47 41 what's the easiest and the best way to have him locked up?"
05:53:51 42 Now if we just step back for a moment. This is a rather
05:53:56 43 extraordinary situation. You've got an officer of the
05:54:00 44 court speaking to a police officer. The barrister is
05:54:04 45 saying, "I act for a client, I'm in the Supreme Court
05:54:07 46 acting for him", and you're saying to her, "What's the best
05:54:11 47 way to get your client locked up?" I mean just reading

05:54:17 1 that it seems extraordinary. Did you think at the time
05:54:20 2 that that seemed pretty extraordinary?---I don't think so.
3
05:54:23 4 No? That didn't occur to you as being somewhat unusual or
05:54:32 5 extraordinary?---No.
6
05:54:38 7 You didn't leave this meeting shaking your head and saying,
05:54:43 8 "Well that was an extraordinary exchange we've just
05:54:46 9 had"?---No.
10
05:54:48 11 No, right. She says, "I don't know". Go over the page.
05:54:58 12 You say, "Yeah, we can investigate". She says, "I don't
05:55:02 13 understand. We can investigate until the cows come up.
05:55:05 14 You know certain things about him that we don't know.
05:55:09 15 Yeah, do you really think that? I do", you say. "Maybe
05:55:14 16 you don't know how useful they can be". She says, "I
05:55:19 17 probably don't". You say, "That's another conversation at
05:55:23 18 another time. But you have a lot of time to think about
05:55:26 19 this. So if you're in a position to say, 'Okay, boys, this
05:55:37 20 is all you have to do to lock him up', what would you say?"
05:55:43 21 You're asking her, the barrister, for advice as to the way
05:55:46 22 in which she could best have her client locked up; is that
05:55:58 23 correct?---Yes.
24
05:56:02 25 She offers a suggestion, "Send in an undercover",
05:56:07 26 yep?---Yes.
27
05:56:08 28 Correct?---That's correct.
29
05:56:11 30 You say, "Yeah, to do what?" Ms Gobbo, "Bribe, bribe.
05:56:16 31 Money, tapes, information. He thinks all police officers
05:56:20 32 are a joke. Or enough money, and he continually tries to
05:56:25 33 make you think he's got police in his back pocket
05:56:28 34 continuously", and it goes on. Ultimately what did occur
05:56:32 35 with respect to an investigation plan was just that, wasn't
05:56:36 36 it?---I'm not following you. What plan are you talking
05:56:46 37 about?
38
05:56:46 39 Was there a plan in due course which was cooked up to the
05:56:50 40 effect that there could be a situation develop whereby
05:56:55 41 Mr Mokbel could be trapped by the introduction of someone
05:57:02 42 who could accept a bribe? Was that something that
05:57:07 43 developed?---No, I think you've overstated that.
44
05:57:11 45 What's the correct position?---There was no plan to trap
05:57:13 46 Mr Mokbel. He was seeking to bribe a policeman.
47

05:57:19 1 Right?---And I had considered strategies to develop, you
05:57:27 2 know, an investigation around his desire to bribe a
05:57:32 3 policeman to get rid of tapes.
4

05:57:33 5 Tapes?---So we discussed that in a - a hypothetical sense
05:57:41 6 if you like. That plan never actually was, if you like,
05:57:48 7 fleshed out or finished or proceeded with.
8

05:57:54 9 Okay. She had certainly told you on the day that she'd
05:57:58 10 given you information along those lines whilst she was
05:58:01 11 talking to you, didn't she?---She definitely told me that
05:58:07 12 Tony Mokbel was seeking to bribe a policeman, yes.
13

05:58:10 14 Yes?---To get rid of evidence.
15

05:58:12 16 Yes. You say on p.84, "The question I sort of ask myself
05:58:27 17 as you're talking is regardless of what track we go down to
05:58:30 18 try and do something about Tony and the others, because to
05:58:34 19 be honest Tony's, whilst he's probably your biggest thorn
05:58:37 20 in your side, I think", and then we can't hear something,
05:58:41 21 "sufficiently fast enough that he's going to end up in gaol
05:58:44 22 anyway. There's still going to be problems regardless,
05:58:47 23 ongoing". What are you talking about there?---I'm pretty
05:58:54 24 sure my view back then was Tony Mokbel was probably going
05:59:02 25 to go to gaol.
26

05:59:03 27 Right?---But the rest of the Mokbel brothers were still
05:59:07 28 going to be a big problem for her, because it wasn't -
05:59:10 29 whilst the conversation might have started on Tony you can
05:59:13 30 see there's references to other members of the family, if
05:59:17 31 you like.
32

05:59:17 33 Yes?---It wasn't just Tony that she was scared of, it was
05:59:20 34 the whole group.
35

05:59:22 36 Right?---You know, in differing degrees. I think Kaban,
05:59:27 37 I don't know that he was a great threat to her, but it was
05:59:30 38 the group that she was concerned about.
39

05:59:33 40 Right?---That's a reference to that. Because I'm pretty
05:59:36 41 sure - I can't actually remember now but I think Tony
05:59:47 42 Mokbel stood a good chance of going to gaol anyway which
05:59:50 43 was one of the aims, if you like, that she'd put out there
05:59:55 44 to get him out of her life.
45

05:59:56 46 Yes, okay. What you say is even with him out of her life
06:00:01 47 she was still going to have problems with the

06:00:04 1 brothers?---That's what she was telling me.
2
06:00:11 3 Were you trying to solve her problems?---As I said, this
06:00:16 4 was just an assessment. I wasn't trying to solve anything.
06:00:21 5 I was just trying to see what was possible. To that end I
06:00:24 6 need to get as information as I can.
7
06:00:28 8 All right. In any event, over the following page at 85, a
06:00:33 9 question of - "So whatever is to be done is to be done".
06:00:41 10 Ms Gobbo says, "Got a lot of resource s". That might be a
06:00:47 11 reference to Mr Mokbel. You say, "I question whether
06:00:50 12 they've got sufficient trust in you to get involved in some
06:00:52 13 of the things that, for example, if we do go down the track
06:00:55 14 of [REDACTED]", right, "Yeah, and maybe there's the
06:01:00 15 option" - - -
06:01:06 16
06:01:06 17 MR HOLT: Excuse me, Commissioner.
18
06:01:34 19 MR WINNEKE: "If we do go down the track of [REDACTED]
06:01:43 20 maybe there's the option to look at the bribe and maybe
06:01:44 21 there's an option [REDACTED] in money laundering, in a
06:01:46 22 money laundering scam". She says, "Well Milad trusts me,
06:01:49 23 and probably, if not equally, simply slightly more than
06:01:52 24 Tony does about some things, as does his brother". You
06:01:57 25 say, "Which one, Horthy?" She says, "Horthy, yeah". Here
06:02:06 26 you are again discussing the possibilities, possibly bribes
06:02:09 27 and money laundering scams with the barrister, to deal with
06:02:15 28 these people, right?---Yes.
29
06:02:26 30 Then if we can go over to p.89. Just excuse me. You say,
06:02:52 31 "If not knowing yet what your relationship with him is
06:02:54 32 really like, could you have a conversation with them about,
06:03:13 33 if you were to have a conversation about [REDACTED], a
06:03:17 34 [REDACTED], for example's sake, had [REDACTED],
06:03:21 35 [REDACTED], would they express [REDACTED]
06:03:24 36 in that sort of conversation or would they say, 'What would
06:03:29 37 you know about that?'" She says, "Well look, if I were to
06:03:33 38 say how someone had done - yeah, they'd be interested,
06:03:38 39 would they? Yeah, Tony would be in particular. And is
06:03:42 40 that the sort of conversation you could have with them?"
06:03:49 41 Is that you trying to think of ways that you could use
06:03:54 42 Ms Gobbo, in effect task her to have a conversation with
06:03:57 43 her client and get evidence against him to have him brought
06:04:02 44 to book?---No, it's just part of the assessment. I'm just
06:04:09 45 throwing things out there trying to get an idea of what her
06:04:13 46 level of access is.
47

06:04:19 1 That was certainly a strategy that was discussed, wasn't
06:04:21 2 it, with other investigative police officers?---The
06:04:31 3 involvement of that particular unit was discussed, yes. In
06:04:39 4 relation to the strategy, I can't remember what the
06:04:42 5 strategy was particularly about.
6

06:04:43 7 Okay. Then at p.94 Ms Gobbo says - she says that she sees
06:04:55 8 him two or three days ago. She says, "Why are you telling
06:04:58 9 me this stuff? Try to understand I go home from seeing
06:05:04 10 someone like that for hours and I think myself what does it
06:05:08 11 mean, why is he telling me that, why is he putting that in
06:05:12 12 my head? Maybe he's recording me. I can't relax, I can't
06:05:16 13 sleep properly. I'm going to end up having another stroke
06:05:20 14 at the rate I'm going". Clearly you were aware at that
06:05:22 15 stage that she'd had a stroke at a relatively young
06:05:25 16 age?---Yes.
17

06:05:26 18 I mean did you think to yourself, "Look, one way for
06:05:29 19 Ms Gobbo to solve her problems might be simply to get out
06:05:33 20 of this relationship that she was in and stop acting for
06:05:37 21 these people"?---That was put to her. She didn't feel she
06:05:45 22 could get out from their clutches and we did talk about
06:05:48 23 that on a number of occasions, why doesn't she just ignore
06:05:53 24 them? Why doesn't she just refuse to do anything for them?
06:05:58 25 As I said to you before, she was scared. She felt she had
06:06:02 26 no choice.
27

06:06:03 28 Certainly after she had become an informer you had
06:06:06 29 discussions about how to get her out, how to extract her
06:06:10 30 from the mire that she'd got herself into. But what I'm
06:06:14 31 suggesting to you at this stage, what you do know is here's
06:06:17 32 a barrister who's come to you, come to the police in an
06:06:21 33 emotional state saying, "I've got problems because they've
06:06:24 34 got conflict problems and I'm sick of dealing with these
06:06:28 35 people", and you accept that she's got problems. Do you
06:06:32 36 think it might have been worthwhile saying to her, "Look,
06:06:36 37 really what you should do is go and get some advice from a
06:06:39 38 senior member of counsel or someone who's a mentor or
06:06:42 39 someone who you know and love to see if can you sort this
06:06:45 40 issue out in a sensible way?---Well I didn't have that
06:06:51 41 discussion with her on that day, I assume from the
06:06:56 42 comments.
43

06:06:58 44 No, you didn't?---I think that's - - -
45

06:07:02 46 Sorry?---If I could just reiterate. I know I had
06:07:06 47 conversations with her and so did some of the other

06:07:09 1 handlers about just getting out. I don't believe I ever
06:07:12 2 said to her, "Why don't you go and get some advice from a
06:07:15 3 mentor or the like".
4
06:07:20 5 Can I ask why not?---Her biggest concern was her fear for
06:07:24 6 these people at that particular time.
7
06:07:26 8 Right. Her fear being her fear of, what, having - being
06:07:39 9 caused harm to by the Mokbels?---Absolutely. She believed
06:07:44 10 that if she didn't do their bidding she would be hurt.
06:07:52 11 It's as simple as that.
12
06:07:53 13 In other words, if she, for example, didn't act for people
06:07:59 14 like Darren Bednarski or didn't act in an interest either
06:08:03 15 way which was in conflict, then she could be harmed. As I
06:08:08 16 understand it that's what you're saying?---Certainly it's
06:08:11 17 not just limited to that but they're examples.
18
06:08:22 19 Can I ask you this question: do you think that the path
06:08:23 20 that you offered her made her safer?---Oh, I think not as
06:08:33 21 things have turned out, no.
22
06:08:38 23 But - - - ?---I think her relationship with Victoria Police
06:08:41 24 has been a disaster for her.
25
06:08:44 26 I mean the reality is with informers of any strike there is
06:08:50 27 always a very real risk of exposure, isn't there?---Yes,
06:08:54 28 there is.
29
06:08:55 30 Once a person decides to become an informer, a human
06:09:00 31 source, particularly in circumstances where she's providing
06:09:03 32 information against killers behind their back, she puts a
06:09:08 33 target on her back, that's what happens, isn't it, that's
06:09:10 34 the reality?---No - - -
35
06:09:15 36 Correct?---No, no, it's not the reality. You would hope
06:09:18 37 that that is never the result.
38
06:09:21 39 Well certainly on an occasion about 12 months prior to this
06:09:27 40 two people were brutally executed, weren't they?---Are we -
06:09:32 41 I think I know who you refer to and one was - - -
42
06:09:35 43 I'm talking about - - - ?---Sorry?
44
06:09:38 45 I'm talking about Mr Hodson and his wife?---Yes.
46
06:09:43 47 So it's certainly not going to be a safer option to become

06:09:46 1 an informer, is it?---That's a decision for her and I can
06:09:56 2 only tell you what she told me, which was that she was
06:10:00 3 scared of them, she was scared that they would hurt her if
06:10:04 4 she didn't do their bidding. I didn't force her into being
06:10:09 5 a human source, and in relation to the ramifications of
06:10:15 6 being discovered, it doesn't get any more serious, you're
06:10:19 7 quite right.
8

06:10:20 9 I understand that. I take it that you understood at the
06:10:27 10 time, that is in September of 2005, that Victoria Police
06:10:31 11 owed a duty of care to people who it was considering
06:10:37 12 registering as a human source?---Yes.
13

06:10:42 14 I take it you were conscious when you were making decisions
06:10:46 15 and providing advice, either to your superiors, that you
06:10:52 16 were conscious of that duty of care?---Yes.
17

06:10:56 18 Righto, okay. Ultimately you say on p.95, after she's told
06:11:14 19 you about various issues with respect to being on the
06:11:18 20 treadmill with the tax office, et cetera, et cetera, you
06:11:20 21 say, "Well look, okay, are you happy to keep talking about
06:11:24 22 Tony with us? Yep, yep. Are you interested to keep
06:11:28 23 talking?", she asked. You say, "At this point, yes.
06:11:34 24 There's some things that you've mentioned that you could
06:11:36 25 explore or I suppose the other thing I've got, we should be
06:11:42 26 going through your motive. I've got no reason to be
06:11:45 27 inventing any of this unless you think that I'm going to go
06:11:49 28 back in and say", and you obviously say, "Yeah, that's a
06:11:54 29 concern for us", and that's the double agent concern,
06:11:58 30 correct?---I'm just reading the transcript as you're
06:12:01 31 talking. It doesn't make sense to me. I don't know that
06:12:04 32 it's entirely accurate when she says, "I suppose the other
06:12:08 33 thing that I've got, we should be going through your
06:12:10 34 motive."
35

06:12:11 36 Yes, that might be the other way around do you think?---I
06:12:14 37 think so. It would make sense.
38

06:12:17 39 Although she says, "I've got no reason to be inventing any
06:12:22 40 of this unless you think I'm going back in to saying that"
06:12:22 41 and you, "Well that's a concern for us". It might well be
06:12:26 42 we can listen to that. In any event, one of the issues is
06:12:29 43 a concern that someone might in fact be presenting as an
06:12:32 44 informer but in fact presenting as a double agent?---It may
06:12:45 45 be a reference to that. I can't tell without the context
06:12:49 46 and also the complete conversation.
47

06:12:51 1 Okay, all right. She says on p.97, "What I would say is,
06:13:12 2 and I often say there's only one or two people who know, my
06:13:18 3 sister being one of them, and I said to her many a time if
06:13:21 4 something happens to me you talk to Jim Valos because he
06:13:25 5 knows, and I'm close to him, and you talk to him. In
06:13:30 6 recent times I've talked to Stuart Bateson because no one
06:13:34 7 else, like I've got actually, from time to time I say don't
06:13:38 8 ever speak to this bloke or that bloke, because like the
06:13:41 9 copper who put my address in the hand-up brief", and it's
06:13:46 10 not apparent from the transcript but I suggest that you've
06:13:49 11 asked her who she speaks to about these issues, would that
06:13:58 12 be fair to say?---I have to see the page or pages before
06:14:05 13 that but - - -
14
06:14:07 15 Okay, we'll go back?---It doesn't read like that.
16
06:14:10 17 "You go and talk to other police and try and try and find
06:14:13 18 out who us are", it's not clear, and she says "spooked".
06:14:18 19 So there's certainly a discussion about who she might speak
06:14:21 20 to?---I'm really not sure.
21
06:14:41 22 Okay, fair enough. If we go to p.98. Just have a look at
06:14:50 23 that?---Yes.
24
06:15:12 25 Effectively what you're saying is you're getting the idea
06:15:15 26 that her reputation to her is something that she's
06:15:18 27 particularly concerned about?---Yes.
28
06:15:22 29 And you say, "Quite rightly you think"?---Yes.
30
06:15:28 31 "And putting aside the fact that maybe if Tony goes to gaol
06:15:32 32 and Milad and Horty and Kabalan and they all go to gaol and
06:15:36 33 look at the sort of, sort of where your life is from that
06:15:38 34 point onwards, what would actually have to occur for you to
06:15:42 35 re-establish your reputation?" And she says, "What do you
06:15:47 36 mean re-establish?" And you say, "Look, if your reputation
06:15:52 37 is, how would you get" - and there's a bit of an exchange.
06:15:59 38 What are you talking about there with respect to her
06:16:01 39 reputation? Are you saying, "Your reputation would suffer
06:16:05 40 if all your clients went to gaol"?---No, she'd already put
06:16:10 41 out there she felt her reputation had been damaged. I was
06:16:14 42 just rehashing the general gist of her feelings.
43
06:16:17 44 I follow?---This is a hypothetical. I'm trying to find out
06:16:21 45 what she thinks, what her options are, what she could do
46
06:16:27 47 "How would you get that back where you wanted it, you know,

06:16:33 1 certainly for you?" She says, "Well look, stop their drug
06:16:37 2 work, that would be the first thing. Okay, stop doing
06:16:40 3 drugs. Stop acting for drug dealers. That would be, that
06:16:43 4 would be the first thing. You wouldn't, you wouldn't have
06:16:46 5 to see me if I didn't act for drug dealers. Stop speaking,
06:16:50 6 stop acting for them and all the talons, all the tentacles,
06:16:57 7 organised crime", et cetera. What she's actually
06:17:00 8 suggesting to you might be the sort of thing that a
06:17:03 9 sensible, reasonable mentor would say to her to ease the
06:17:14 10 pressure that she's under. She's actually putting that up
06:17:18 11 herself, isn't she?---She is but I think she's talking from
06:17:23 12 the point of view of those other people being out of her
06:17:27 13 life, then she can move on with her life.
14
06:17:31 15 Yeah?---I don't think for a minute she believed she could
06:17:33 16 stop acting for the Mokbels.
17
06:17:40 18 Whether or not she believed it, whether you think she
06:17:42 19 believed it, it would certainly be very good advice to her,
06:17:45 20 it would have been good advice to her as a way to get her
06:17:48 21 out of the problems that she was in?---Well, you can only
06:17:56 22 make that assessment if you knew how real the threat to her
06:18:01 23 life was by the Mokbels.
24
06:18:02 25 Was she of more value to the police as an informer and who
06:18:11 26 was a person who associated herself with the Mokbels than a
06:18:15 27 person who got out of associating with the Mokbels and drug
06:18:18 28 dealers?---I think that's - pretty obvious answer to that
06:18:26 29 is somebody who's associating with the Mokbels is of more
06:18:31 30 value to Victoria Police, especially when they're
06:18:34 31 indicating they're prepared to work in the capacity as a
06:18:40 32 human source.
33
06:18:41 34 The glue if you like that brought her together with the
06:18:43 35 Mokbels was the fact that she was a barrister?---Yes. That
06:18:52 36 might have been the - well, that definitely was an aspect
06:19:00 37 of her relationship with them, but it was also a social
06:19:06 38 relationship outside of the context of the normal
06:19:08 39 client/lawyer relationship, professional relationship.
40
06:19:12 41 Clearly that may well be right but equally some sensible
06:19:15 42 advice might be to stop socialising as well, that might be
06:19:19 43 sensible advice. In any event, I take it you'd accept
06:19:22 44 that?---To tell her to stop socialising?
06:19:27 45
06:19:29 46 Yes?---I think we did on a number of occasions.
47

06:19:36 1 But if she stopped socialising with them you wouldn't be
06:19:39 2 able to get the information that she got through
06:19:42 3 socialising with them?---Mr Winneke, I told her, and so did
06:19:46 4 the team on a number of occasions, to stop socialising. We
06:19:50 5 told her at different times she could walk away from the
06:19:54 6 relationship. We had no leverage of her. She was not like
06:19:59 7 a - your standard, if you like, human source when it comes
06:20:04 8 to the police because they need something from the police,
06:20:09 9 they need a letter of comfort for court perhaps for
06:20:13 10 outstanding charges. She was not one of those people and
06:20:16 11 she makes this point I think in this particular
06:20:19 12 conversation early in the piece, that she doesn't want
06:20:21 13 anything.

14
06:20:23 15 So you say that the police, the attitude of your
06:20:27 16 organisation was that it did not want her to socialise with
06:20:31 17 these criminals?---No, I'm not saying that at all. I'm
06:20:35 18 just saying that she was told on several occasions that she
06:20:38 19 could easily remove herself.

20
06:20:41 21 But if she removed herself from socialising with them then
06:20:44 22 you wouldn't get any information; is that right?---That's
06:20:47 23 quite right.

24
06:20:51 25 If we go to p.112, you say this to her, "There's a range of
06:21:05 26 things you need to be concerned about", right, "And your
06:21:11 27 reputation I think is right up there", correct?---Yes.

28
06:21:16 29 "But you're surrounded by some pretty ordinary people".
06:21:22 30 She says, "Yep. Which you figured, you figured that out
06:21:25 31 ages ago. I don't like - we've taken time to do a little
06:21:31 32 bit of research about you. Yep". What research had you
06:21:36 33 done?---Fifteen years later I don't know, Mr Winneke.

34
06:21:47 35 And then you say this to her, "I don't see any real sort of
06:21:51 36 decent people around you. I don't see any real sort of
06:21:55 37 lifelines for you at the moment in your life". Why do you
06:22:02 38 say that to her?---I think it's pretty clear that
06:22:06 39 Ms Gobbo's - or perhaps not 100 per cent but a vast
06:22:16 40 majority of her social contact was with criminals.

41
06:22:19 42 And so - - - ?---One of the reasons why - that was one of
06:22:24 43 the reasons why she was useful as a human source.

44
06:22:27 45 Yes?---She had access to a large group of criminals. I
06:22:30 46 don't think she did have any decent people in her life. I
06:22:32 47 think there was her sister and probably some professional

06:22:38 1 contacts within her office obviously, but it seemed that
06:22:41 2 her social contacts were just criminals.
3
06:22:44 4 It seems it might be thought that what you were trying to
06:22:48 5 do here was just to highlight that point to her, otherwise
06:22:51 6 why do you need to say it?---This is - I've told you this
06:22:56 7 is an assessment. That's posed in the form of a question.
06:23:01 8 She answers, "There's a couple but that's about it". So
06:23:05 9 I'm still trying to explore her as an individual. It's not
06:23:10 10 - you seem to be suggesting that I'm on a heavy recruiting
06:23:15 11 campaign here to force her into complying with the police.
06:23:19 12 It's just an assessment.
13
06:23:20 14 Well it does seem to be because it's a pretty sort of a
06:23:23 15 leading statement you make, "I don't see any sort of decent
06:23:28 16 people around you". It's not a question, "Do you have any
06:23:31 17 people who can support you or you can get some advice
06:23:34 18 from"?---It's not the question that you're suggesting, it's
06:23:38 19 not at all. It's a statement of fact and she replies by
06:23:41 20 saying, "There's a couple but that's about it". It's put
06:23:45 21 in the form of a - it's not put in the form of a question
06:23:48 22 but it's a questioning type statement and it's a statement
06:23:50 23 of fact.
24
06:23:51 25 Right. You've never met her before?---No, that's right.
26
06:23:56 27 She says, "There are a couple but that's about it. There
06:24:02 28 are a couple that are not connected with the legal
06:24:05 29 profession, yeah". You say this, "Okay, so you've
06:24:08 30 definitely got to do something". What do you mean there?
06:24:11 31 What are you trying to achieve by saying that?---If I
06:24:14 32 follow the gist of that conversation I think what I'm
06:24:20 33 saying is, "You need to get some decent people in your
06:24:23 34 life, not criminals."
35
06:24:26 36 Yeah, what, the SDU perhaps?---No.
37
06:24:40 38 You say, "You make that decision. Now whether you want to
06:24:42 39 continue it or not, it's entirely up to you". She says,
06:24:48 40 "No, I made the decision about 12 months ago". You say,
06:24:53 41 "Yeah". She says, and it's not clear exactly what she says
06:25:00 42 but, "Had a lot of complications with Stuart". We take it
06:25:04 43 that's a reference to Stuart Bateson. "I need someone who
06:25:07 44 like, I'm sure he'll tell you if you speak to him, and you
06:25:10 45 may not be able to speak to him bearing in mind that no one
06:25:14 46 is supposed to know I'm talking to you here". And you say,
06:25:17 47 "We will not touch base with Stuart or any other person who

06:25:20 1 might know or might have even made some overtures towards".
06:25:28 2 It may be - were you aware at that stage that she had made
06:25:32 3 some overtures towards other police officers?---I don't
06:25:40 4 know. She'd certainly made overtures to Mansell and Rowe.
5
06:25:46 6 Yes?---So, yeah, I really don't know.
7
06:25:53 8 In any event, it might be thought that you were aware that
06:25:56 9 she'd made overtures to people, including Stuart Bateson.
06:26:00 10 Did you know at that stage that she'd had dealings with
06:26:03 11 Stuart Bateson?---No, not until she mentioned it in this
06:26:07 12 conversation.
13
06:26:08 14 You say this, "This stays within this group of five here".
06:26:17 15 That really wasn't quite correct, was it?---At that
06:26:22 16 particular time.
17
06:26:31 18 There were certainly other people who knew at this time,
06:26:34 19 weren't there?---Yes.
20
06:26:35 21 What was going on here?---That she was going to be
06:26:39 22 assessed, yes.
23
06:26:41 24 Why wouldn't you have told her, "Look, the reality is there
06:26:46 25 are a number of people who know about what's going on here
06:26:51 26 and the number will grow and there will be, as time goes
06:26:55 27 on, more people who will know what you're doing" - - -
06:27:02 28
06:27:02 29 MR CHETTLE: Commissioner, can I - I don't like to object
06:27:04 30 because I know it is a Royal Commission, but it's apples
06:27:08 31 and oranges. What the witness said is "only the people
06:27:11 32 here are going to know what we're talking about". The fact
06:27:16 33 that she's talking to them is a different issue. It's
06:27:20 34 clear the transcript refers to well what he's talking about
06:27:21 35 is what's going on here.
06:27:21 36
06:27:22 37 COMMISSIONER: We've got the transcript, Mr Chettle. Yes,
06:27:24 38 Mr Winneke.
06:27:25 39
06:27:26 40 MR CHETTLE: That's why you invited me to object.
41
06:27:28 42 COMMISSIONER: Yes, Mr Winneke.
43
06:27:37 44 MR WINNEKE: You certainly wouldn't want her to have known
06:27:39 45 at that stage that there would be a number of people in due
06:27:47 46 course, not just the people who were in that room, who
06:27:52 47 would know that she was going to be providing information

06:27:56 1 to Victoria Police?---Well at that stage we don't know
06:28:04 2 whether she's going to be providing information to Victoria
06:28:07 3 Police.
4
06:28:07 5 But you're hoping she will; aren't you?---It's definitely a
06:28:12 6 possibility but we don't know. I don't know how many times
06:28:16 7 I have to say this, it was an assessment.
8
06:28:19 9 Right. She was registered on this day, wasn't she?---I
06:28:23 10 understand she was registered I think on that day - it may
06:28:31 11 have even been earlier than that. The purpose of that was
06:28:35 12 not to say that she was registered as a human source. It
06:28:39 13 was simply to file a number, an identifying number that
06:28:46 14 could be used in people's diaries, as opposed to having her
06:28:49 15 name in people's diaries or other police documents.
16
06:28:52 17 Right?---It was quite a common practice to get that number
06:28:56 18 very early even though a person was not registered as a
06:29:00 19 human source.
20
06:29:02 21 Your documentation certainly, on a reading of it, on a
06:29:06 22 plain reading of it, suggests that she was registered on 16
06:29:09 23 September 2005, doesn't it?---But what I'm saying to you,
06:29:13 24 with respect, is that she was given the registration
06:29:17 25 number. She was not registered as a human source.
26
06:29:24 27 Well, when was she registered - - - ?---She'd not been
06:29:28 28 accepted as a human source, she was simply being assessed.
29
06:29:32 30 When was she in fact - when did she in fact become a
06:29:36 31 registered human source?---I'm not sure. I think - you can
06:29:46 32 see from the subsequent meetings that she does get taken on
06:29:49 33 as a human source but in terms of when the organisation
06:29:54 34 decided, yes, she will be a human source, I'm not sure.
35
06:30:05 36 Then the conversation goes on. If we go over to p.116.
06:30:22 37 You say, "If you decide you're not happy with it, if you
06:30:26 38 decide you've had enough, you decide it's not working, you
06:30:29 39 stick your hand up and say you want out, that's it, it's
06:30:34 40 over". She says, "I just need some, this is, thi I see is
06:30:37 41 the way out of it all and not end up either in gaol or
06:30:42 42 dead. I don't know what else to do. I could go away for
06:30:45 43 six months but that's just running away, it's not dealing
06:30:49 44 with the problem, not dealing with the issues". I suppose
06:30:53 45 if someone who was looking after her duty of care was there
06:30:57 46 they might say, "Well look, hang on, it might well be a way
06:31:01 47 to deal with it because you could extract yourself from the

06:31:04 1 Mokbels, you could use the excuse that you've had a stroke
06:31:08 2 and you're not well and you could get out of that milieu in
06:31:13 3 that way. There are ways that you could extricate yourself
06:31:17 4 from it". On one view it might be said that that was a way
06:31:21 5 that a reasonable person might suggest that this woman get
06:31:24 6 out of the predicament that she was in, do you accept that
06:31:27 7 proposition?---That's not what she was saying. She was
06:31:32 8 saying that's simply going to do - what's the word - defer
06:31:38 9 the problem.

10
06:31:39 11 No, no, but that's not the question that I asked you. The
06:31:41 12 question I asked you was do you think that a reasonable
06:31:45 13 person could have said to you, "There is a way out of it,
06:31:47 14 and that is in part you're six month suggestion is a good
06:31:51 15 one. Take some time away, get the message out that you're
06:31:55 16 not well and you're having a change in career, extricate
06:31:59 17 yourself from the Mokbels". What I'm suggesting to you is
06:32:04 18 that is what a person, on one view, who had a consideration
06:32:10 19 for her welfare, might well say to her?---I think it's
06:32:16 20 clear from the conversation - - -

21
06:32:17 22 Do you accept that or not, yes or no?---No, I don't.

23
06:32:20 24 You don't accept that?---No.

25
06:32:21 26 Okay, all right. Instead what you say is, "Well, it's not
06:32:25 27 dealing with it because if you disappeared I think there'd
06:32:29 28 be the same questions raised", right? You think that's the
06:32:34 29 reasonable response to make, that is of a person who has
06:32:41 30 her best interests at heart; is that right?---I'm not
06:32:45 31 suggesting I had her best interests at heart, Mr Winneke.

32
06:32:48 33 That's what I'm getting at, Mr White. You didn't have her
06:32:53 34 best interests at heart, did you?---No.

35
06:32:57 36 Indeed, you had the best interests of Victoria Police at
06:33:01 37 heart and not hers?---I'm not her priest, Mr Winneke. I'm
06:33:09 38 a policeman.

39
06:33:10 40 I understand?---I do have the best interests - I have a
06:33:15 41 duty of care to her and that's to make sure she doesn't get
06:33:18 42 hurt, there's no doubt about that. But also I have a role
06:33:21 43 as a policeman to see whether she's got access to
06:33:24 44 information that could be useful to try and - well, back
06:33:30 45 then, it was to try and stop the gangland killings which
06:33:33 46 was the major focus for the Crime Department. So, you
06:33:37 47 know, if I was her priest I probably would have said run

06:33:40 1 away, go and live in some other place and get away from it
06:33:44 2 all. She said that she didn't think that was going to
06:33:46 3 solve her problems. So what I'm saying is doing no more or
06:33:49 4 less than agreeing with her.

5
6 Can I just deal with the issue of the gangland murders.
7 She wasn't introduced to you with a view to solving
8 gangland murders, she was introduced to you with respect to
06:34:10 9 dealing with drug issues, correct?---Well, the drug issues
06:34:10 10 were the root cause of the gangland murders.

06:34:12 11
06:34:16 12 Do you accept that she was introduced to you with a view to
06:34:19 13 dealing with drug issues?---No, she wasn't introduced to me
06:34:23 14 specifically for any one reason. I feel like I'm repeating
06:34:29 15 myself but she had a wide social network of criminals, many
06:34:34 16 of whom were underworld figures involved in the gangland
06:34:38 17 killings or who had knowledge of the gangland killings, and
06:34:42 18 the gangland killings were all about who controlled the
06:34:45 19 amphetamine trade in Melbourne.

06:34:46 20
06:34:50 21 What I'm suggesting is this, and I'm not suggesting you're
06:34:54 22 a priest or otherwise, what I'm suggesting is do you accept
06:34:57 23 or not that Victoria Police in terms of its obligations
06:35:02 24 when registering a human source is obliged to objectively
06:35:07 25 and carefully weigh up the risks and the benefits of the
06:35:11 26 registration of a person as a registered human
06:35:16 27 source?---Yes, I do.

06:35:17 28
06:35:17 29 And should that be done with great care?---Yes.

06:35:21 30
06:35:22 31 And should it be done with objectivity?---Yes.

06:35:27 32
06:35:28 33 And should it be done in the case of someone like this who
06:35:31 34 would have to be at the highest level of risk when it comes
06:35:36 35 to the potential of being killed if exposed, should it be
06:35:42 36 done by very senior police officers?---Ultimately the
06:35:49 37 acceptance of her as a human source has to come from the
06:35:55 38 rank of a, back then I think it was a Superintendent, it
06:35:59 39 may have been a Commander.

06:36:01 40
06:36:02 41 All right, I'll come to that. Sorry, go on?---Sorry,
06:36:05 42 you're saying should it be assessed by a senior member.

06:36:08 43
06:36:08 44 Yes?---And, and it was.

06:36:10 45
06:36:11 46 Should it also be assessed bearing in mind the Rule of Law
06:36:16 47 and the interests of justice?---Yes.

06:36:18 1
06:36:19 2 And should all matters which touch upon those issues be
06:36:23 3 weighed into the balance when making a decision to register
06:36:26 4 a human source such as this?---They should be.
06:36:29 5
06:36:30 6 Do you believe they were in this case?---Well, I think
06:36:36 7 probably not because you will see from the risk assessment
06:36:40 8 that we failed to identify the risk of the perception of
06:36:48 9 using a lawyer against her clients, how that would be
06:36:54 10 perceived. Now that I think it's very clear in hindsight
06:37:01 11 should have been recognised and documented.
06:37:03 12
06:37:04 13 Not only that, should it have been considered, not just
06:37:08 14 recognised and documented but looked into and considered
06:37:13 15 and taken into the mix when it came to deciding whether or
06:37:17 16 not it was an appropriate thing to do?---Yes, I do.
06:37:21 17
06:37:22 18 It obviously wasn't, was it?---Well, um, no, the risk was
06:37:28 19 not identified by anybody from the lowest member to the
06:37:31 20 most senior.
06:37:33 21
06:37:44 22 Nor was the issue of engaging a lawyer to provide
06:37:51 23 information against the very people for whom she was
06:37:55 24 acting, that wasn't really taken into consideration either,
06:37:59 25 was it?---At the outset, no, it wasn't.
06:38:03 26
06:38:13 27 But that risk became pretty apparent certainly in [REDACTED]
06:38:21 28 2006, didn't it? It came into focus very sharply?---Is
06:38:28 29 this the first time we told her we don't want any
06:38:32 30 privileged information?
06:38:33 31
06:38:33 32 No, I'm talking about [REDACTED]?---Sorry.
06:38:42 33 Yes, the issue of the conflict of interest issue.
06:38:47 34
06:38:47 35 Yes?---Yes.
06:38:47 36
06:38:48 37 So that was clearly apparent then?---Yes.
06:38:50 38
06:38:53 39 Was the risk assessment at that stage updated to include
06:38:58 40 that risk?---I don't think so.
06:39:00 41
06:39:01 42 Was it discussed between you and anyone?---Well myself and
06:39:08 43 Jim O'Brien were not happy about it at all after it
06:39:13 44 happened. I can't really take that any further. I can't
06:39:22 45 recall was it discussed at any other level.
06:39:30 46
06:39:35 47 What was the way things were left at the end of that

06:39:38 1 meeting as far as you can recall?---I'm only guessing, not
06:39:49 2 having read the transcript, but I presume it would have
06:39:54 3 been left that, well we'll think about it, we'll all go
06:39:58 4 away, then we'll come back and have another discussion,
06:40:03 5 pretty stock standard for assessment processes.
06:40:05 6
06:40:06 7 Is there any provision in the process for you to say to
06:40:08 8 her, "Look, what you're considering is a very significant
06:40:12 9 step for you, a lawyer, a professional person. What we
06:40:16 10 suggest you do is to go away and speak to someone who you
06:40:20 11 trust to get an objective view about what you're
06:40:24 12 doing"?---Well that didn't happen.
06:40:28 13
06:40:30 14 Well did you consider making that suggestion to her?---I
06:40:36 15 don't think so.
06:40:36 16
06:40:37 17 Why not?---I really don't know at this particular point in
06:40:47 18 time.
06:40:47 19
06:40:47 20 One assumes that you wouldn't have suggested it because the
06:40:52 21 sensible advice, anyone who would have offered her sensible
06:40:56 22 advice would have been, "Don't go near it with a barge
06:41:02 23 pole"?---Well the decision is hers and I'm not in the habit
06:41:08 24 of saying to potential human sources, "Go and talk to other
06:41:11 25 people about what you want to do".
06:41:13 26
06:41:13 27 This was unique?---It may well have been unique,
06:41:16 28 Mr Winneke, and perhaps it might have been a good thing to
06:41:19 29 say to her, but I didn't say it.
06:41:21 30
06:41:21 31 With the benefit of hindsight - - - ?---I did not think
06:41:25 32 about it.
06:41:27 33
06:41:27 34 Because the reality is once she started informing against
06:41:30 35 her client ethically that was in effect repugnant to her
06:41:35 36 obligations, wasn't it?---So, this comes back to the
06:41:43 37 discussion we had yesterday. When she's providing
06:41:48 38 information that's given to her by her clients about crimes
06:41:54 39 they're currently participating in or intending to
06:41:57 40 participate, I guess we could have a debate about the
06:42:01 41 ethics of that. I would say as a policeman, firstly, I
06:42:06 42 didn't believe it to be LPP and, secondly, I've got an
06:42:11 43 obligation when she reports a serious crime, whether that
06:42:18 44 comes from a client or not, as long as it's not LPP, I have
06:42:23 45 an obligation to do something about it on behalf of the
06:42:25 46 Victorian community. You can argue the ethics of that and
06:42:28 47 say from a lawyer's point of view it's repugnant, but from

06:42:32 1 a citizen's point of view and a policeman's point of view
06:42:37 2 something has to be done about it.
06:42:38 3
06:42:38 4 The argument has been had, Mr White, it's been had in the
06:42:41 5 Court of Appeal and the High Court, the Supreme Court. We
06:42:42 6 had this discussion yesterday, but it's a question of due
06:42:47 7 process, isn't it, legal - upholding the fundamental
06:42:53 8 principles of the criminal justice system?---Well, as I
06:42:59 9 said to you, I haven't read Mr Ginnane's judgment beyond
06:43:04 10 the section that relies on the Comrie report, so I can't
06:43:09 11 really make any comments about that. I'm certainly not
06:43:12 12 going to debate judgments with a lawyer.
06:43:14 13
06:43:18 14 All right. So after this you produce an information,
06:43:27 15 sorry, an ICR, that's ICR number 1, and that's in effect,
06:43:33 16 or at least it's produced by Mr Smith.
06:43:37 17
06:43:37 18 COMMISSIONER: Just strike that name from the record.
06:43:39 19
06:43:40 20 MR WINNEKE: I withdraw that. I'm sorry. I'm sorry.
06:43:52 21
06:43:53 22 WITNESS: Commissioner?
06:43:54 23
06:43:54 24 COMMISSIONER: Yes.
06:43:54 25
06:43:55 26 WITNESS: Is it possible to have a quick break?
27
06:43:57 28 COMMISSIONER: Yes, certainly. Ten minutes?---Five would
06:44:00 29 do.
06:44:00 30
06:44:00 31 We'll adjourn for five minutes?---Thank you.
06:44:18 32
06:44:56 33 (Short adjournment.)
06:50:10 34
06:50:10 35 COMMISSIONER: Yes Mr Winneke.
06:50:12 36
06:50:12 37 MR WINNEKE: Thanks Commissioner. Mr White, I just want to
06:50:19 38 finish off, if I can, asking you a few questions about the
06:50:24 39 next meeting. You'll be glad to hear I'm not going to do
06:50:30 40 this with all of the discussions you had with her and you
06:50:35 41 had many, many hours of discussions with Ms Gobbo, didn't
06:50:38 42 you, over the years?---Yes.
06:50:39 43
06:50:39 44 Do you say that following 16 September a decision hadn't
06:50:46 45 been made at that stage to register her?---No, what I said
06:50:52 46 to you was I'm not sure when she was officially, it was
06:50:56 47 officially decided she was entering into that sort of

06:51:00 1 relationship with Victoria Police.
06:51:01 2
06:51:01 3 If we go to the SML. Following the meeting on 16 September
06:51:23 4 there's an entry made into the source management log and
06:51:29 5 it's a relatively short entry, but it says an assessment
06:51:34 6 following an interview. "She's got intelligence regarding
06:51:37 7 Mokbel, ██████ Lanteri and Operation Quills. There's
06:51:46 8 concern about her welfare, she's afraid of the Mokbel
06:51:51 9 family, she's well-known to all of the brothers. Claims
06:51:54 10 Tony Mokbel is currently seeking, took bribe, VicPol, MDID
06:52:01 11 member with view to ascertaining evidence against him re
06:52:04 12 Operation Quills and also wants to steal tape recordings re
06:52:09 13 Operation Kayak". So that information certainly has been
06:52:15 14 entered into the source management log. Would it be fair
06:52:18 15 to say that the source management log at that stage wasn't
06:52:22 16 up and running, or was it?---I don't know.
06:52:26 17
06:52:31 18 It's unlikely, I suspect, because it says that ICR
06:52:36 19 reference number 1 against it, but ICR number 1 wasn't
06:52:41 20 completed, if you accept the document, until some days
06:52:45 21 later. I think on 7 October 2005?---Yes.
06:52:52 22
06:53:00 23 Despite the fact that the documentation suggests that she
06:53:04 24 had been registered by the 16th, it's unlikely that in
06:53:08 25 fact, that that was the case, would that be correct?---Yes.
06:53:12 26
06:53:14 27 And in order for a person, a registration to be approved,
06:53:19 28 ultimately it's got to go up the line, doesn't it, past the
06:53:23 29 Officer-in-charge to the HSMU?---Yes, it actually goes
06:53:34 30 further than that. So the Source Development Unit was only
06:53:38 31 running high risk sources.
06:53:39 32
06:53:39 33 Yes?---And I think the policy back then required that any
06:53:46 34 source that the SDU was going to be involved with would
06:53:50 35 have to be approved and signed off by, not by the
06:53:56 36 Officer-in-charge of the HSMU but the next officer up,
06:54:00 37 which was the Officer-in-charge of the, I think the State
06:54:05 38 Intelligence Department.
06:54:05 39
06:54:05 40 Yes. You then had a meeting - did you have any discussions
06:54:12 41 with, obviously you don't have your diary, I assume you'll
06:54:17 42 say you can't recall, but do you believe you would have had
06:54:19 43 discussions with anyone immediately after 16 September
06:54:22 44 about what had occurred in this meeting on the 16th?---I
06:54:26 45 think I would have.
06:54:26 46
06:54:28 47 Who would you have spoken to?---Most probably Senior

06:54:34 1 Sergeant O'Brien.

06:54:35 2

06:54:35 3 Yes?---And I think I might have had a part-time [REDACTED]

06:54:42 4 in charge of the SDU, or it might have even been the DSU

06:54:46 5 then, but I think it was [REDACTED] Doug Calishaw, so he

06:54:54 6 would have been interested.

06:54:54 7

06:54:55 8 It may be that he was away, we're not clear about that. Do

06:54:59 9 you know if he wasn't there, would you have made an attempt

06:55:02 10 to speak, or to go up higher?---I don't know. If he was

06:55:15 11 away there was probably somebody sitting in his stead.

06:55:19 12

06:55:19 13 You spoke to Robert Hill on 19 September. There was a

06:55:23 14 meeting with him and Senior Sergeant O'Brien and Detective

06:55:28 15 Sergeant Mansell. Do you think that's as high as it went

06:55:34 16 at that stage?---I don't know.

06:55:47 17

06:55:48 18 You agree that this was an extraordinary circumstance,

06:55:55 19 speaking to a barrister and at least considering

06:55:59 20 registering a barrister against some of the most highly

06:56:07 21 sought criminals in the State?---You have to appreciate,

06:56:12 22 Mr Winneke, I was working in a completely different

06:56:15 23 department to the Crime Department.

06:56:17 24

06:56:17 25 Yes?---And their management processes, I would only be

06:56:22 26 guessing. I know that, for example, Senior Sergeant

06:56:25 27 O'Brien spoke to Assistant Commissioner Overland at various

06:56:30 28 times about Ms Gobbo.

06:56:32 29

06:56:32 30 Yes?---And I know that you've had Mr Hill before the

06:56:36 31 Commission and I'm presuming he can take that matter a lot

06:56:40 32 further than I can.

06:56:40 33

06:56:41 34 But as far as you know, based on the source management log,

06:56:45 35 you speak to Hill, you speak to O'Brien. He's of the same

06:56:49 36 rank of you at this stage, but Acting Superintendent Hill,

06:56:53 37 those two are the people you speak to, and Mansell?---And

06:56:56 38 Mansell, yes.

06:56:57 39

06:57:00 40 Would you expect in a case like this that the Crime

06:57:06 41 Department would have gone upstream and spoken to the likes

06:57:09 42 of Simon Overland at that time?---I really can't shed any

06:57:18 43 light on this.

06:57:19 44

06:57:19 45 Okay. You don't have an expectation, you simply don't

06:57:23 46 know?---I would just be speculating and I don't think

06:57:26 47 that's appropriate.

06:57:27 1
06:57:27 2 Would you hope that they did?---I'm not sure back then.
06:57:38 3
06:57:38 4 Okay, all right. What about Mr Thomas, Ian Thomas?---So -
06:57:54 5 I think Mr Thomas would have been briefed about this. He
06:57:59 6 was my, in my management.
06:58:02 7
06:58:03 8 What was his rank?---I think at that time he might have
06:58:07 9 been an Acting Commander.
06:58:08 10
06:58:10 11 So you would have briefed him, I assume?---I did have
06:58:14 12 discussions with him but I'm not sure when.
06:58:17 13
06:58:18 14 Did you have discussions with him about the risk, the
06:58:20 15 potential risks of registering a barrister?---I probably
06:58:25 16 did because I think he was the one that had to sign off on
06:58:29 17 the risk assessment.
06:58:30 18
06:58:31 19 Having that discussion I assume you would have given him a
06:58:35 20 fulsome briefing of the discussion that you'd had with
06:58:39 21 Ms Gobbo?---I'm sure I would have.
06:58:42 22
06:58:43 23 I assume you would have told him, "Look, it seems that
06:58:47 24 she's acting for Mr Mokbel, she's acting for people such as
06:58:52 25 ██████████ she's acting for, at least she has had or has as
06:58:57 26 clients brothers of Mr Mokbel and we are trying to get
06:59:02 27 information from her about those people"?---I don't know
06:59:07 28 whether I would have told him all that.
06:59:10 29
06:59:11 30 Do you think you should have told him about those
06:59:13 31 things?---I think he - you're asking me to speculate. I
06:59:19 32 just can't remember.
06:59:20 33
06:59:21 34 Is there any document that would evidence those sorts of
06:59:24 35 discussions?---Well, there will be notes in my diary, if
06:59:30 36 that can be found. And maybe Mr Thomas will have notes in
06:59:36 37 his diary, if he kept a diary, I'm not sure whether
06:59:42 38 officers do, but in any event, and at the very least
06:59:45 39 there's the risk assessment. So at a bare minimum - - -
06:59:52 40
06:59:53 41 What we're trying to do is track down any documents which
06:59:58 42 evidence communications between you and any other police
07:00:03 43 officers. And that's what I'm asking you about. I'm
07:00:08 44 talking about documents which are contemporaneous, that is
07:00:12 45 not the risk assessment which was completed in November but
07:00:15 46 documents prior to that?---I can't think of anything other
07:00:19 47 than official diaries.

07:00:21 1
07:00:22 2 You wouldn't have put together a briefing paper or anything
07:00:24 3 of that sort?---No. No, not me. It may be, the Human
07:00:36 4 Source Management Unit had governance over the SDU.
07:00:41 5 Whether there were communications between them and
07:00:44 6 Mr Thomas, which is a definite possibility, I don't know.
07:00:50 7
07:00:53 8 What I might do is move on to the next meeting. Do you say
07:00:57 9 that as at the 21st of September you were still assessing
07:01:01 10 or had you by that stage come to a conclusion that you
07:01:07 11 would, in all probability, register her?---No, definitely.
07:01:15 12 We would have definitely been in the assessment phase in
07:01:18 13 that second meeting.
07:01:19 14
07:01:19 15 It's likely I suspect, given both of you were keen to
07:01:24 16 continue talking, that the chances are there was going to
07:01:27 17 be some sort of union between the two of you?---Yes, I know
07:01:34 18 what you're saying.
07:01:36 19
07:01:36 20 The likelihood is yes, right?---Yes.
07:01:39 21
07:01:41 22 You say at p.22, and if we can put this document -
07:01:47 23 VPL.0005.0051.0136.
07:02:24 24
07:02:24 25 COMMISSIONER: Just while we're working on that, the ICR
07:02:30 26 for 20 and 21 September 2005 has marked that the informer
07:02:40 27 had been tasked, does that mean that she had been accepted
07:02:44 28 by that stage, the fact that she'd been tasked?---I don't
07:02:48 29 think so, Commissioner.
07:03:24 30
07:03:24 31 MR WINNEKE: I put this to you, p.22, I know it's not up
07:03:28 32 yet - p.22, which is at 157. You say to her that, "You're
07:03:58 33 a little bit unique, not entirely unique, but insofar as
07:04:02 34 the fact that most", I suspect it says "your clients are
07:04:06 35 people", it may be "your clients", but, "People who have
07:04:10 36 got a big hammer hanging over their head and they need some
07:04:14 37 help. You're not in that category at all - no, I withdraw
07:04:16 38 that. You're saying most of our clients have got a big
07:04:20 39 hammer hanging over their head and they need some help.
07:04:25 40 You're not in that category at all and you obviously are a
07:04:29 41 lot better educated". She says, "I'm only concerned about
07:04:33 42 my safety". She goes on and says, "And this being, I'm not
07:04:57 43 able to be somehow found out about by anybody. I mean
07:04:59 44 these two blokes that were there, Dale Flynn I do trust,
07:05:05 45 the other two blokes no". You say, "Yeah, well all I can
07:05:08 46 say to you on that score is as time progresses you will
07:05:11 47 make your own judgment whether you think you're being

07:05:15 1 professionally or not", I assume you mean you're being
07:05:20 2 professionally handled or not?---Yes.
07:05:22 3
07:05:23 4 You say, "Nobody else is going to be involved in this with
07:05:26 5 the exception of one other person in my eyes. There won't
07:05:31 6 be any investigators from MDID, there won't be any
07:05:34 7 investigators from St Kilda Road, there won't be any other
07:05:38 8 policemen involved in the relationship with you unless you
07:05:41 9 choose to speak to Steve or Dale or Stuart or any of those
07:05:45 10 people, and I'm advising you that you don't" and she says,
07:05:52 11 "Not a chance". Certainly insofar as knowledge of her
07:05:56 12 being an informer, or a human source, it was always your
07:06:00 13 understanding that there were going to be a number of
07:06:03 14 people who would know who she was?---Well that's - yes,
07:06:12 15 that's the case with every source. You can see, even from
07:06:19 16 the early days, we were trying to manage the risk of people
07:06:26 17 who didn't need to know knowing and I think if you refer to
07:06:32 18 the source management log entry, 19 September, "Agreed MDID
07:06:41 19 members to be told human source assessed by DSU has no
07:06:46 20 value". And that was an effort to spread some
07:06:57 21 misinformation I suppose, because there were people who did
07:07:00 22 know she was being assessed by the SDU. So I wanted the
07:07:03 23 message sent out through the office that we had assessed
07:07:06 24 her and it was a waste of time.
07:07:08 25
07:07:11 26 Page 29 you say to her, "Look the other day we just tried
07:07:16 27 to pick your brains about what you know about the whole
07:07:20 28 Mokbel family. The other day when we spoke to you
07:07:21 29 obviously you had a lot of information and you did most of
07:07:22 30 the talking. It all sort of spilled out. There's a lot of
07:07:26 31 things you said we'd like to follow up on". She says,
07:07:29 32 "I've got nothing to hide about so ask away". Then you go
07:07:36 33 back, you say, "Well look, we'll probably go back to the
07:07:40 34 start and work out chronologically from there". Mr Smith
07:08:02 35 says, effectively saying, "You've got to tell the truth as
07:08:10 36 you know it and we'll sort the rest out, and I suppose over
07:08:12 37 a period of time you'll get to a point where you think
07:08:17 38 she's definitely not here fishing for him". Then if you go
07:08:25 39 to the next page she says, the bottom of 31, "I meant what
07:08:33 40 I said last week, I would just, this goes against lots of
07:08:37 41 things that I believe in but at the same time I'm doing it
07:08:40 42 because of the things I believe in, which have got lost
07:08:44 43 along the way but I would be murdered, just, just no
07:08:47 44 questions about it, it took years to track me down, I hid
07:08:51 45 somewhere, it wouldn't" - effectively saying, "It wouldn't
07:08:55 46 matter, I could go anywhere. If it was found, I could hide
07:08:59 47 anywhere, people would track me down, even if it took

07:09:03 1 years", effectively that's what she's saying to
07:09:06 2 you?---That's what she believed.
07:09:08 3
07:09:10 4 It's a serious business, isn't it, that she's entering
07:09:13 5 into?---Yes.
07:09:14 6
07:09:17 7 Then you start, I suggest, and I'm not going to go through
07:09:20 8 all of this in detail, but you start extracting information
07:09:23 9 from her. You're asking her about, obviously, information
07:09:43 10 relating to Mokbel, Mokbel contacts, et cetera, et cetera.
07:09:50 11 And if we get to page, I'm skipping through it but if we
07:09:55 12 get to p.78, she says that, "The current rumour is", she
07:10:30 13 describes a couple of people [REDACTED].
07:10:33 14 "Where's that rumour come from? The rumour comes from
07:10:38 15 [REDACTED] [REDACTED] [REDACTED]
07:10:42 16 [REDACTED] and I don't, I assume that he's [REDACTED] whilst on
07:10:46 17 bail but I'm not with him 24 hours a day and nor would he
07:10:51 18 tell me if he was". And Mr Smith says, "And you're
07:10:59 19 thinking they're [REDACTED]
07:11:03 20 [REDACTED], and then she
07:11:08 21 provides information about the rumours. Effectively what
07:11:11 22 she's saying is that there's this person, [REDACTED] [REDACTED] her
07:11:15 23 client and - Commissioner, I'm told that at 3:35:23 I
07:11:33 24 mentioned [REDACTED] [REDACTED] by name and obviously that would need
07:11:37 25 to be removed from the record. 3:35:23.
07:11:41 26
07:11:41 27 COMMISSIONER: Thank you. I didn't pick it up, I'm sorry.
07:11:43 28
07:11:43 29 MR WINNEKE: I've just been passed a note from the
07:11:49 30 transcribers in any event.
31
32 COMMISSIONER: All right. Thank you.
33
07:11:59 34 MR WINNEKE: So what is being made clear is that she's
07:12:03 35 acting for [REDACTED] [REDACTED] He's on bail. And in the meantime
07:12:09 36 there are other people who have stepped into the [REDACTED]
07:12:14 37 [REDACTED], right?---Yes.
07:12:19 38
07:12:22 39 Then you ask about other people and if we go to p.106,
07:12:26 40 bottom of the page. Mr Smith says, "Now what's the other
07:12:38 41 name of the guy", effectively you mentioned before - can I
07:12:46 42 just ask my learned friend, I don't believe there's an
07:12:48 43 issue with respect to this one. There's a reference to a
07:13:02 44 person who is described on p.106 and 107 as a money man for
07:13:08 45 Tony, do you see that? We're not going to use his
07:13:11 46 name?---Yes.
07:13:12 47

07:13:13 1 And he owns a shop and he sells - - -
07:13:17 2
3 MR HOLT: Commissioner, can I just out of an abundance of
07:13:20 4 caution just be clear that the reason I've asked for names
07:13:22 5 not to be used just for this last period is that I wasn't
07:13:25 6 aware this transcript was going to be referred to. I don't
07:13:28 7 want stop anything. It's not - I don't want anyone drawing
07:13:30 8 inferences that they might otherwise draw.
07:13:33 9
10 MR CHETTLE: There is a pseudonym for that person.
07:13:37 11
12 MR WINNEKE: There is? No, it's not, it's a different
07:13:47 13 person.
14
15 MR CHETTLE: Wrong one.
16
17 MR WINNEKE: If we go over to - Mr Smith's asking questions
07:13:58 18 about this person and she says, "He's very close to Tony
07:14:06 19 but he's someone who would probably crumble with a fair
07:14:10 20 amount of pressure put on him. He's scared of Tony. I've
07:14:14 21 seen Tony screaming at him and he's scared of him. Says he
07:14:19 22 doesn't understand the in and outs of the relationship".
07:14:22 23 But if we go over the page we get to 110 and you say -
07:14:50 24 there's questions about a restraining order and you say,
07:14:53 25 "Who's actually taken out the restraining order, who is
07:14:56 26 pushing that?" She says, "The DPP. Commonwealth or State?
07:14:59 27 State I assume. This has a consequence of certain hearings
07:15:03 28 that may have to take place or taking place at the place
07:15:08 29 we're talking about". Right. And she's being a bit cagey
07:15:12 30 about mentioning a name and Mr Smith says, "Right", and she
07:15:19 31 says, she points out it's a criminal offence to,
07:15:25 32 effectively what I'm suggesting is she's being cagey and
07:15:28 33 not volunteering information and saying it's a criminal
07:15:31 34 offence to talk about it, right, do you agree with
07:15:35 35 that?---Yes.
36
37 If you go over the page. Mr Smith says, "We turned our
07:15:44 38 phones off on silent. If you need to answer the phone" -
07:15:48 39 obviously her phone's rung and then she says, "No, it's
07:15:54 40 fine". Mr Smith goes back to the person who I'm talking
07:15:57 41 about, the associate of Mokbel's, and having mentioned
07:16:01 42 previously this issue about talking about this place, she
07:16:06 43 says, "Yeah, he got dragged into the ACC last week, or last
07:16:11 44 week", right. Now, and Mr Smith says, "Okay. And I know
07:16:20 45 that because he approached me to see whether I could appear
07:16:23 46 for him". Right. Now, what she has done there has
07:16:30 47 mentioned, on one view she's broken the law, hasn't

07:16:35 1 she?---Yes, on one view, yes.

07:16:40 2

07:16:40 3 If you take the view that these sorts of hearings are

07:16:44 4 secret hearings, and let's just assume that in the normal

07:16:48 5 course there would be a non-disclosure order or, which is a

07:16:52 6 significant order, the breach of which results in criminal

07:16:56 7 punishment, if what she's done is to breach that order,

07:17:01 8 she's committed a criminal offence, hasn't she?---Yes.

07:17:04 9

07:17:05 10 And one would expect that either you and/or Mr Smith would

07:17:09 11 have said, "Hang on, hang on, hang on, you can't break the

07:17:15 12 law". You would expect that, if we turn the page, you will

07:17:21 13 have said something like that, wouldn't you?---I think that

07:17:26 14 would have been appropriate, yes.

07:17:27 15

07:17:28 16 You'd hope when we turn the page you would have said

07:17:31 17 something along those lines, wouldn't you?---You would

07:17:34 18 hope, Mr Winneke.

07:17:36 19

07:17:37 20 Let's turn the page. And Mr Smith said, "And did ya?"

07:17:47 21 That is, "Did you appear for him?" She says, "No, I wasn't

07:17:50 22 allowed. Who did? Remy van de Weil, another barrister.

07:17:54 23 Tried to get Mr Heliotis but he wasn't allowed", et cetera,

07:17:59 24 et cetera. Would it be fair to say that in the early

07:18:04 25 stages of the relationship that you have with an informer

07:18:08 26 it would be important to set the ground rules and to ensure

07:18:12 27 that the relationship continued without, or with each

07:18:17 28 person knowing what their obligations were?---Yes.

07:18:21 29

07:18:21 30 You certainly don't do that here, do you?---No.

07:18:24 31

07:18:32 32 Let's not beat about the bush, do you accept that these are

07:18:36 33 serious laws that exist for a purpose, these laws which are

07:18:41 34 made by Commonwealth Parliament to deal with these sorts

07:18:45 35 of, this sort of legislation, this sort of secret

07:18:49 36 Commission or hearing?---Yes, I do.

07:18:51 37

07:18:56 38 Do you think that the proper and ethical thing would be to

07:18:58 39 make it very clear to her at the very outset that in fact

07:19:02 40 she had just committed potentially a criminal

07:19:07 41 offence?---Yes.

07:19:08 42

07:19:08 43 And to warn her that she should not expose herself, that

07:19:13 44 she has rights, various rights to remain silent if you like

07:19:17 45 and not to commit criminal offences?---I don't know about

07:19:23 46 the various rights but - - -

07:19:25 47

07:19:26 1 Right to silence?---I think she should have been warned, I
07:19:29 2 think she should have been warned that she can't talk about
07:19:33 3 that.
07:19:33 4
07:19:33 5 I suggest to you she wasn't warned here and indeed
07:19:37 6 throughout the course of your relationship with her was
07:19:40 7 effectively never warned about disclosing information about
07:19:43 8 information about ACC hearings, OPI hearings, OCE hearings,
07:19:47 9 it was a regular occurrence throughout the relationship
07:19:51 10 that sort of information simply flowed over to you without
07:19:54 11 her being warned about the potential for criminal
07:19:57 12 prosecution?---No, I don't, I don't believe it was a
07:20:00 13 regular occurrence and I've had the opportunity to look
07:20:06 14 through probably less than 10 per cent of the material, so
07:20:10 15 in terms of whether she was told not to talk about it or
07:20:12 16 not, I would hope that she was. Now, you can probably,
07:20:20 17 you've probably got, I'm guessing you've probably got
07:20:23 18 examples of where we didn't do that, but I just haven't had
07:20:27 19 the time to look at the material thoroughly.
07:20:29 20
07:20:29 21 I understand that. We've got plenty of examples I suggest
07:20:33 22 to you, which occurred over many months, many years of
07:20:36 23 that, Mr Smith, but in any event we'll come to those in due
07:20:40 24 course. Now - I'm sorry, Mr White. There's further
07:21:02 25 discussion about that, about that matter. Then if we move
07:21:21 26 on to p.122. This discussion occurs. She describes to you
07:21:58 27 a conference that she has when the person that I'm talking
07:22:02 28 about whose name I can't mention at this stage until we,
07:22:06 29 this is the associate of Tony Mokbel, she describes how
07:22:09 30 Mr Mokbel brings him into her office, 122, top of the page.
07:22:18 31 "He turned up at 7 o'clock and I reckon about 15 minutes or
07:22:22 32 ten minutes later he wouldn't come upstairs, he wouldn't
07:22:25 33 come up to my actual office because no one would actually
07:22:28 34 come in there because they believe, or there's a belief
07:22:31 35 that there's listening devices installed" and Mr Smith
07:22:39 36 says, "They're scaredy cats" and Ms Gobbo says, "And they
07:22:43 37 there were ... some very confidential information". Tony
07:22:48 38 comes first, then the person comes. The telephone rings.
07:22:53 39 So he turns up and he says, Mokbel says, 'An associate's
07:22:59 40 coming' and I said, 'Why?' He says, 'Because he's got a
07:23:03 41 subpoena to the ACC'. Turns up about ten minutes later and
07:23:07 42 I said, 'Look, you're not supposed to be here whilst he's
07:23:11 43 discussing this because it says on the front of the summons
07:23:15 44 it's a criminal offence to discuss the fact that you've got
07:23:18 45 one', and I said to him, 'I'm more than happy to give you
07:23:22 46 advice about the content of the summons and so forth but I
07:23:31 47 can't discuss what you might say with him'." She's saying

07:23:34 1 that to Mr Mokbel, "And I can't equally, I couldn't, it was
07:23:39 2 really difficult, because I couldn't say to this person,
07:23:42 3 'The reason why I couldn't talk to you about the detail in
07:23:45 4 front of him because I've been there for him, two weeks
07:23:50 5 ago', because he might have told, Tony might have told the
07:23:53 6 person I'm not about to tell him because he'll go round
07:23:57 7 repeating the fact that I've committed the crime by telling
07:24:00 8 him. He was very clear that he disclosed, already
07:24:04 9 disclosed too long before he turned up to see me". Do you
07:24:08 10 see that on p.124?---Yes.

07:24:10 11
07:24:13 12 Anyway, the issue with him was that he was jumping up and
07:24:17 13 down saying, "How dare they? They summonsed me and it says
07:24:21 14 on the front of the summons, which he didn't have with him
07:24:23 15 by the way, he says he's got it, and I said, 'What's it
07:24:28 16 about? The first thing is I mightn't be able to appear for
07:24:31 17 you because they might say that I can't'", what she's doing
07:24:35 18 in effect is launching into a discussion with you,
07:24:39 19 information that she, at least the contents of a discussion
07:24:44 20 that she's having with a client, do you accept that?---Yes.

07:24:51 21
07:24:52 22 And do you think that it might have been appropriate to say
07:24:55 23 at that stage, "Well look, we can't accept from you or
07:24:59 24 receive from you information that might be the subject of
07:25:04 25 legal professional privilege"?---Okay. So we didn't say it
07:25:16 26 to her on that occasion.

07:25:18 27
07:25:18 28 No?---And, but I just keep coming back to the fact that
07:25:24 29 there's many examples of when we did.

07:25:26 30
07:25:27 31 But do you think this might have been a good opportunity to
07:25:29 32 say to her, "Look, we're going to get something straight
07:25:33 33 here, we are not in a position to receive from you
07:25:36 34 confidential communications or discussions that you have
07:25:38 35 with your client"?---Yeah, I don't think we recognised it
07:25:41 36 at that time. I think we've already said we should have
07:25:48 37 told her we shouldn't be talking about it, the ACC issue
07:25:53 38 full stop.

07:25:54 39
07:25:54 40 She goes on and says, "I didn't say the reason, that's why.
07:25:58 41 Where's the summons? 'I don't have it with me.' And then
07:26:01 42 he started crapping on about, you know, how he's outraged
07:26:06 43 about the fact that it said on the front of the summons he
44 was a money launderer and, 'How dare they? I'm a money
07:26:08 45 launderer', blah, blah, blah, 'I'm a legitimate
07:26:11 46 businessman' and that's what he was basically saying, 'I
07:26:15 47 choose who my friends are, this is guilt by association',

07:26:18 1 blah, blah, blah. And then Tony started yelling out",
07:26:21 2 et cetera. What I'm suggesting to you is if this is the
07:26:33 3 commencement of the relationship, you are not setting out
07:26:40 4 any Acknowledgement of Responsibilities, are you?---In
07:26:46 5 relation to the issue of privilege, on that occasion, no.
07:26:51 6
07:26:53 7 Nor are you obviously telling her, "Look you're committing
07:26:56 8 criminal offences", are you?---No.
07:26:59 9
07:27:08 10 Why not?---I have no idea at this point in time.
07:27:13 11
07:27:14 12 I wonder if that's a convenient time, Commissioner.
07:27:17 13
07:27:17 14 COMMISSIONER: Yes, all right. We're resuming tomorrow at
07:27:20 15 9.30. Adjourn.
16
17 <(THE WITNESS WITHDREW)
07:28:05 18
07:28:07 19 ADJOURNED UNTIL FRIDAY 2 AUGUST 2019
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