

ROYAL COMMISSION INTO THE MANAGEMENT  
OF POLICE INFORMANTS

Held in Melbourne, Victoria

On Wednesday, 18 September 2019

Led by Commissioner:           The Honourable Margaret McMurdo AC

Also Present

Counsel Assisting:	Mr C. Winneke QC Mr A. Woods
Counsel for Victoria Police	Mr S. Holt QC Ms K. Argiropoulos
Counsel for State of Victoria	Mr C. McDermott
Counsel for Nicola Gobbo	Mr P. Collinson QC Mr R. Nathwani
Counsel for DPP/SPP	Ms K. O'Gorman
Counsel for CDPP	Ms C. Fitzgerald
Counsel for Police Handlers	Mr G. Chettle Ms L. Thies
Counsel for John Higgs	Ms C. Dwyer
Counsel for Faruk Orman	Ms C. Lloyd
Counsel for Pasquale Barbaro	Mr C. Wareham
Counsel for AFP	Ms I. Minnett

09:33:07 1 COMMISSIONER: Yes, the appearances are largely as they  
09:33:09 2 were on Friday, but we have Ms Fitzgerald for the  
09:33:14 3 Commonwealth DPP and we have Mr McDermott for the State of  
09:33:19 4 Victoria. Yes.  
09:33:22 5  
09:33:22 6 MR WOODS: Yes. Commissioner, as you're aware - - -  
7  
09:33:24 8 COMMISSIONER: I think we're in open hearing at the moment.  
09:33:27 9  
09:33:27 10 MR WOODS: Yes, we are in open hearing. Mr Higgs and  
09:33:28 11 Mr Barbaro's counsel have applied for leave to question  
09:33:31 12 this witness.  
13  
09:33:32 14 COMMISSIONER: Yes.  
09:33:33 15  
09:33:33 16 MR WOODS: I've viewed the areas that they wish to examine  
09:33:35 17 on and in my submission they're appropriate. I understand  
09:33:39 18 the AFP have responded to an invitation as to whether  
09:33:44 19 anyone took exception saying they don't. I'm not sure  
09:33:47 20 whether other parties have at this stage but they might  
09:33:49 21 explain their position - - -  
22  
09:33:50 23 COMMISSIONER: Are there any objections?  
09:33:51 24  
09:33:51 25 MR HOLT: No, Commissioner.  
09:33:53 26  
09:33:54 27 MR McDERMOTT: No objection by the State.  
28  
09:33:55 29 COMMISSIONER: As there are no objections then it seems  
09:33:56 30 appropriate in my view to allow the cross-examination which  
09:34:00 31 will be in quite short compass. I will allow it.  
09:34:03 32 Ms Dwyer, you're ready to go?  
09:34:05 33  
09:34:06 34 MS DWYER: Yes.  
35  
09:34:06 36 COMMISSIONER: The witness is on the line. Can you hear  
09:34:10 37 me, Mr Fox?---Yes, I can, Commissioner.  
38  
09:34:12 39 Thank you. And of course you're on your former  
09:34:14 40 oath?---Yes, of course.  
41  
09:34:15 42 Yes, Ms Dwyer.  
09:34:17 43  
09:34:18 44 <OFFICER FOX, recalled:  
09:34:20 45  
09:34:21 46 MS DWYER: Mr Fox, I act on behalf of Mr Higgs and just to  
09:34:22 47 explain the process, I'm working off some slightly

09:34:25 1 different documents from some of the rest of the Bar table  
09:34:27 2 so I will be reading some dates and numbers and will just  
09:34:31 3 be trying to bring up the relevant documents on the screen.  
09:34:42 4  
09:34:42 5 (Testing of emergency warning system.)  
6  
09:35:48 7 COMMISSIONER: The next sound we'll hear is your  
09:35:51 8 cross-examination, Ms Dwyer.  
09:35:52 9  
09:35:52 10 MS DWYER: Mr Fox, I think I'm jinxed in cross-examining  
09:35:57 11 but we'll see how we go. If we can go to p.909 of the 3838  
09:36:03 12 ICRs. This is 17 June 2007 at 23:41. Hopefully we'll have  
09:36:09 13 a document brought up on your screen but not the public  
09:36:12 14 screens. They're ought be reference to a particular person  
09:36:28 15 with the first name Amy arriving with Higgs and leaving at  
09:36:33 16 approximately 10 pm.  
17  
09:36:37 18 COMMISSIONER: Could I just ask, this is an SML? What is  
09:36:43 19 the document?  
09:36:44 20  
09:36:45 21 MS DWYER: These are the ICRs.  
22  
09:36:46 23 COMMISSIONER: Do you know which number it is?  
09:36:50 24  
09:36:51 25 MS DWYER: It's ICR 84 of 3838.  
26  
09:36:54 27 COMMISSIONER: Thanks very much.  
09:36:56 28  
09:36:56 29 WITNESS: Could it be brought up a little bit more?  
09:36:59 30  
09:36:59 31 COMMISSIONER: Larger, yes?---Thank you, that's it, great.  
09:37:03 32  
09:37:04 33 MS DWYER: You see the reference that I've just spoken  
09:37:07 34 about?---Yes.  
35  
09:37:10 36 I have an entry in my document which is in bold and reads  
09:37:20 37 the pseudonym of Green, "Re possibility of fifth person to  
09:37:24 38 be Higgs. He will send a DTF scout out". If we can scroll  
09:37:31 39 down and see if that exists in this entry.  
40  
09:37:45 41 COMMISSIONER: Do you have a page number at the bottom of  
09:37:47 42 your document?  
09:37:49 43  
09:37:49 44 MS DWYER: I'm referring to my summary of extracts.  
45  
09:37:54 46 COMMISSIONER: I see, I understand.  
09:37:56 47

09:37:56 1 MS DWYER: Which has been loaded and we bring up in a  
09:37:58 2 moment. This is your ICR, is it, Mr Fox?---Yes, it is.  
3  
09:38:13 4 There is a dissemination just below, is that  
09:38:26 5 correct?---Yes.  
6  
09:38:27 7 There's an action there indicating a  
09:38:31 8 dissemination?---That's correct.  
9  
09:38:33 10 However it doesn't contain that particular level of detail  
09:38:38 11 that I've just read out?---Yes.  
12  
09:38:40 13 "Re possibility of fifth person to be Higgs. He will send  
09:38:42 14 a DTF scout out." If we can then perhaps use the  
09:38:50 15 technology that excited Mr Holt and bring up  
09:38:59 16 VPL.4021.0001.0009 and you can see there the entry that  
09:39:04 17 I've just referred to. You had no input in creating the  
09:39:09 18 summary of extracts for individual potentially affected  
09:39:15 19 persons, did you, Mr Fox?---No.  
20  
09:39:20 21 So it's the case that you can't shed any light on the  
09:39:25 22 discrepancy between what appears in the ICR you created and  
09:39:29 23 what appears in the document on the right of your  
09:39:33 24 screen?---That's correct, yes. That's not my entry.  
25  
09:39:38 26 But you were the one who disseminated that information; is  
09:39:45 27 that right?---Yes. If I could look at my diary I may say  
09:39:53 28 some more.  
29  
09:39:53 30 Can you have a look at your diary?---The 17th of June 07.  
31  
09:40:00 32 And 23:41?---I have an entry on Monday 18 June 2007 at  
09:42:03 33 9.45 am where I say I speak to Officer Green "re overnight  
09:42:09 34 updates".  
35  
09:42:17 36 Is that the exact wording of that entry?---Yes. It says,  
09:42:20 37 "09:45 spoke to Officer Green re overnight updates for  
09:42:25 38 3838".  
39  
09:42:36 40 It's of course possible that other people are disseminating  
09:42:44 41 this information, isn't it, within the framework of the  
09:42:50 42 SDU?---No, no, that's my entry from the night before and  
09:43:02 43 that call finishes at 00:42 in the morning and then the  
09:43:10 44 first thing the next morning I'm speaking to, well 9.45 I'm  
09:43:15 45 speaking to Officer Green.  
46  
09:43:19 47 COMMISSIONER: But do you know what Officer Green did with

09:43:22 1 that information?---No, I don't.  
09:43:27 2  
09:43:40 3 MS DWYER: I may need to come back to this topic in closed  
09:43:46 4 session. Could I just have one moment, Commissioner?  
5  
09:43:50 6 COMMISSIONER: Of course.  
09:44:08 7  
09:44:09 8 MS DWYER: In relation to information and disseminations,  
09:44:13 9 you needed to give information to your controller, didn't  
09:44:20 10 you, Mr Fox?---That's correct.  
11  
09:44:26 12 Mr White was apprised of this particular information,  
09:44:32 13 wasn't he?---Yes, he was.  
14  
09:44:43 15 In relation to the entry that you can see on the right  
09:44:46 16 there, "Re possibility of fifth person to be Higgs", I want  
09:44:52 17 to put the timeline to you, which you're familiar with,  
09:44:57 18 which is that on 5 June Ms Gobbo produced to you a bill of  
09:45:06 19 lading?---That's correct.  
20  
09:45:08 21 And this created some discussion amongst members of the  
09:45:16 22 SDU, along with Mr Green, who at some point moved to the  
09:45:19 23 Drug Task Force?---That's correct.  
24  
09:45:24 25 That was on the - please answer?---Yeah, can I clarify  
09:45:33 26 that. Mr Green was at the Drug Task Force, as I remember,  
09:45:36 27 by then.  
28  
09:45:36 29 By when?---So the discussion - the discussion of the  
09:45:41 30 information would have been with SDU members first.  
31  
09:45:47 32 And then Mr Green moved to the Drug Task Force on 12  
09:45:52 33 June?---I'm not exactly sure of the date.  
34  
09:45:55 35 And one of the tasks of police, including the SDU, would  
09:46:03 36 have been to determine who were the people involved in the  
09:46:08 37 importation?---Yes, identify people, yeah, who were meeting  
09:46:19 38 Mr Karam and going out for dinner with him, yes.  
39  
09:46:25 40 Moving to p.974 of the 3838 ICRs. This is 3 July 2007 and  
09:46:37 41 the time is 19:55. We should see somewhere in this entry  
09:46:51 42 talk about how she has known Higgs since 1996 when she was  
09:46:57 43 junior with Solicitor 1?---Yes, I can see that.  
44  
09:47:07 45 What this reveals is a previous lawyer/client relationship,  
09:47:16 46 doesn't it?---I don't think so. From memory there are  
09:47:32 47 other entries that she has just graduated from her law

09:47:37 1 course I remember somewhere.  
2  
09:47:45 3 Whether or not it's correct, this revealed to you a  
09:47:53 4 potential lawyer/client relationship, didn't it?---Yeah,  
09:48:04 5 that's some nine years beforehand. I'm not sure whether I  
09:48:08 6 was aware that that solicitor was on - was qualified then.  
09:48:19 7 More than nine, eleven.  
8  
09:48:19 9 Reading the words of the entry, "When she was junior with  
09:48:24 10 Solicitor 1"?---Yes. Yes, that's written there.  
11  
09:48:30 12 So she was certainly a lawyer at that point in  
09:48:37 13 time?---Yeah, reading that line, yep, that would tend to  
09:48:40 14 suggest that.  
15  
09:48:41 16 It certainly reveals that she came to know Mr Higgs within  
09:48:46 17 the context of her being a lawyer?---That's what it,  
09:48:55 18 appears written there, yes.  
19  
09:48:57 20 Are you familiar with Operation Phalanx?---No.  
21  
09:49:06 22 You would have been aware, given that Mr Higgs was a target  
09:49:12 23 at this point in time, that he had a criminal  
09:49:17 24 history?---Yes.  
25  
09:49:20 26 And did you fail to make any inquiries whether his contact  
09:49:25 27 with Ms Gobbo as a lawyer related to him being represented  
09:49:32 28 by Solicitor 1 for one of his prior matters?---I didn't  
09:49:42 29 make those inquiries, no.  
30  
09:49:44 31 You understand, of course, that if a person, an accused is  
09:49:47 32 represented by a firm, then that lawyer/client relationship  
09:49:52 33 exists with every single member of that firm?---It would  
09:50:00 34 depend on the circumstances would be my understanding.  
35  
09:50:08 36 You gave evidence on Friday of last week, this is p.6291 of  
09:50:15 37 the transcript, that before handling Ms Gobbo you would  
09:50:20 38 familiarise yourself with the ICRs. Do you recall giving  
09:50:24 39 that evidence?---Yes, and speaking to the handlers and  
09:50:30 40 controller.  
41  
09:50:32 42 That was a practice in place every time you resumed  
09:50:39 43 handling Ms Gobbo; is that right?---Yes.  
44  
09:50:47 45 One of the times you resumed handling her was 1 September  
09:50:51 46 2008?---I can't recall but I accept that.  
47

09:50:58 1 You've given that evidence last week?---Okay.  
2

09:51:11 3 Prior to that you would have read the preceding ICRs?---I  
09:51:21 4 would be briefed by the previous handler and the  
09:51:24 5 controller, yep.  
6

09:51:28 7 And you would have become aware that on 8 August 2008  
09:51:31 8 Ms Gobbo visited John Higgs in the Custody Centre?---I  
09:51:41 9 can't recall that as I sit here now but I could look at my  
09:51:45 10 diary.  
11

09:51:47 12 COMMISSIONER: Yes, what date was that, please?  
09:51:50 13

09:51:50 14 MS DWYER: 8 August 2008.  
15

09:51:51 16 COMMISSIONER: Yes.  
09:51:52 17

09:51:57 18 MS DWYER: Do you accept that if that appears in the ICRs  
09:52:00 19 that's something you would have familiarised yourself  
09:52:04 20 with?---If it appears in the ICRs, yes.  
21

09:52:09 22 For your reference - sorry, Commissioner.  
23

09:52:13 24 COMMISSIONER: Well one of the things I wanted to ask the  
09:52:15 25 witness though was the trouble is some of these ICRs are  
09:52:19 26 dated months afterwards. So were they always ready before  
09:52:29 27 each time you handled Ms Gobbo?---Yes. So the answer to  
09:52:32 28 that would be no, but obviously our diaries were always  
09:52:38 29 contemporaneous.  
30

09:52:41 31 You've been asked whether you looked at the ICRs and you  
09:52:45 32 said yes, but I thought it was a bit of a tentative yes  
09:52:48 33 because you said you'd discuss it with the handlers?---Yep.  
09:52:53 34 It would be a mix of all three but primarily it would be  
09:52:58 35 from the handler and the controller.  
36

09:53:00 37 Right. If these ICRs were, as you've told us they were,  
09:53:07 38 often in a state of preparation, that is not complete but  
09:53:12 39 an ongoing work in progress, would you look at the ICR as  
09:53:15 40 far as it had been completed?---Yes, probably primarily it  
09:53:22 41 is an update verbally from the handler and the controller.  
42

09:53:32 43 Yes. Thanks Ms Dwyer.  
09:53:33 44

09:53:34 45 MS DWYER: In relation to completing ICRs, was it the usual  
09:53:41 46 practice for a handler to complete ICRs before they passed  
09:53:44 47 over management or handling of the source to the next

09:53:48 1 handler?---Sorry, can you ask that again? Practice of  
09:53:59 2 completing them? I don't understand.  
3  
09:54:02 4 As I understand it ICRs are a record of information  
09:54:07 5 obtained from the source and source management issues; is  
09:54:14 6 that correct?---Yes.  
7  
09:54:14 8 It would be good practice, wouldn't it, for those documents  
09:54:17 9 to be completed at the end of one handler's period of time  
09:54:24 10 handling the source so that they're available for the next  
09:54:29 11 handler to use?---Yes, in an ideal world but that wasn't  
09:54:36 12 practical.  
13  
09:54:50 14 If I can just move backwards. Looking at p.1031 - perhaps  
09:55:01 15 we don't need to do that. If we can go to p.547 of the  
09:55:11 16 2958 ICRs. This is 8 August 2008. This isn't your  
09:55:47 17 entry?---Yes.  
18  
09:55:48 19 But what you can see there, tell me if I'm reading this  
09:55:53 20 correctly - sorry, if we can just remain at the very top of  
09:55:59 21 the page for the moment - that ICR date range from and to,  
09:56:06 22 does that indicate the date that it was completed or does  
09:56:10 23 that only indicate the dates that were covered within the  
09:56:13 24 ICR itself?---It indicates the dates covered in the ICR.  
25  
09:56:17 26 So the dates covered are the 8th to the 14th of  
09:56:22 27 August?---That's correct.  
28  
09:56:22 29 Where do we need to look to find the date that the ICR was  
09:56:26 30 completed?---It's at the bottom of that document.  
31  
09:56:30 32 Page 563.  
09:56:36 33  
09:56:37 34 MR HOLT: Sorry, 557.  
09:56:39 35  
09:56:40 36 MS DWYER: Sorry, 557 I'm being told. It was 10 October.  
09:56:49 37 So it's possible that you didn't see this ICR when you  
09:56:53 38 resumed controlling - excuse me, you resumed handling in  
09:57:01 39 September of 2008. However, the arrests that I'm talking  
09:57:09 40 about on 8 August were the tomato tins arrests. So if we  
09:57:19 41 can go back to p.547 briefly. This was huge news, was it  
09:57:27 42 not?---I can't recall the time but it would have been, yes.  
43  
09:57:38 44 It was the world's largest ecstasy import at the  
09:57:42 45 time?---That's my memory, yes.  
46  
09:57:46 47 Even the bill of lading had generated significant



09:57:49 1 discussion amongst SDU members. You agree with  
09:58:01 2 that?---When we received it, yes.  
3  
09:58:07 4 The arrests generated significant media attention at the  
09:58:12 5 time?---I can't recall but I would imagine, yes.  
6  
09:58:19 7 And this would have been a time of high risk, I suggest, to  
09:58:26 8 Ms Gobbo. Was there not concern amongst the SDU that she  
09:58:31 9 may have been at risk?---I wasn't there at that time but I  
09:58:44 10 would imagine, yes.  
11  
09:58:45 12 So I suggest to you that this was something that you would  
09:58:48 13 have familiarised yourself with?---Yes, I would have spoken  
09:58:55 14 to the handler and the controller.  
15  
09:58:57 16 By "this" I mean the content in this ICR, whether it be  
09:59:01 17 contained in another members' diary or wherever it be  
09:59:11 18 contained?---Well, it indicates at the bottom it wasn't  
09:59:14 19 submitted in September. I can't recall how I familiarised  
09:59:20 20 myself with this. Most likely by speaking to the handler  
09:59:24 21 and the controller.  
22  
09:59:25 23 But you agree with the premise that you certainly would  
09:59:30 24 have made sure that you knew the information?---Yes, from  
09:59:37 25 the hand over, yes.  
26  
09:59:47 27 If we can move backwards at this point to p.1031 of the  
09:59:53 28 3838 ICRs. This is 18 July 2007 at 17:26. You see here  
10:00:17 29 this entry, "Spoke to human source about possibility of HS  
10:00:24 30 having dinner with both targets at a restaurant [REDACTED]  
10:00:28 31 [REDACTED] and to get them talking about the  
10:00:30 32 current container. HS likes the idea. Long talk about the  
10:00:34 33 best way to do this. Rob Karam back from Darwin". There's  
10:00:40 34 not dates. "It would not be suspicious for them as it  
10:00:43 35 could be used as some type of welcome back/going away  
10:00:47 36 dinner for her. Higgs has suggested a book for her to read  
10:00:51 37 whilst away. She could ring him requesting the title and  
10:00:54 38 mention dinner in the conversation. Talk about  
10:00:56 39 implications of her [REDACTED]  
10:00:58 40 and strategies to get out of this. Discussed idea of an  
10:01:04 41 ACC hearing. Told her we can discuss closer to the time".  
10:01:16 42 Are we able to scroll down? Could I please have loaded  
10:01:34 43 VPL.4021.0001.0020. You can see there similar content in  
10:02:10 44 that top text box and then you can see there additional  
10:02:17 45 information, "HS thinking that if police were to ACC Rob  
10:02:21 46 Karam, Higgs and Mannella all at once they would definitely  
10:02:25 47 talk afterwards in secret meetings. Advised HS we would

10:02:29 1 keep this in mind". Do you recall that conversation?---Not  
10:02:41 2 specifically but somewhat I do in terms of talking about  
10:02:48 3 opportunities that might arise for further police - the  
10:02:53 4 police to collect further evidence, yes.  
5  
10:02:59 6 This is an example of Ms Gobbo having input in police  
10:03:08 7 strategy, isn't it?---I disagree with that. It's her input  
10:03:17 8 on how to do it safely without suspicion.  
9  
10:03:30 10 Whose idea was using an ACC hearing to generate  
10:03:40 11 discussion?---I would need to read the entry again. I  
10:03:46 12 can't recall.  
13  
10:03:48 14 I suggest to you that that entry indicates it was  
10:03:52 15 Ms Gobbo's idea?---I can't recall.  
16  
10:03:57 17 You couldn't exclude that possibility?---No, I can't  
10:04:04 18 recall.  
19  
10:04:05 20 At this point you can't say that Ms Gobbo did not have  
10:04:10 21 input in the way that the police investigated this matter  
10:04:16 22 and attempted to generate evidence, could you?---No, she  
10:04:24 23 did not have input into how it was to be investigated but  
10:04:31 24 she would have input into how to do tasks that we asked her  
10:04:35 25 safely.  
26  
10:04:44 27 If we can move then to p.234 of the 2958 ICRs. This is 27  
10:04:56 28 April 2008 at 16:00. I think that page reference must be  
10:05:20 29 wrong. We're looking for a 16:00 time?---That says 12  
10:05:28 30 April.  
31  
10:05:28 31  
10:05:29 32 Yes, we're looking for 27 April. We'll just attempt to  
10:05:32 33 find the right reference. We're in the wrong ICRs,  
10:05:41 34 apologies. We're on the 2958 ICRs, 27 April 2008. 234.  
35  
10:05:51 36 COMMISSIONER: Yes, thank you. I can give you the VPL  
10:05:57 37 number, 2000.0003.0974.  
38  
10:06:02 38  
10:06:02 39 MS DWYER: It's up on the screen now.  
40  
10:06:04 41 COMMISSIONER: It's there, thank you.  
42  
10:06:05 42  
10:06:08 43 MS DWYER: You can see this entry, "John Higgs was arrested  
10:06:11 44 at Melbourne Airport. Eric Harbos from DTF has rung her"  
10:06:22 45 and Ms Gobbo has passed that information on to you. You  
10:06:31 46 recall that happening?---Yes.  
47

10:06:32 1 Then at 9.30 if we scroll down. You recall that Higgs was  
10:06:44 2 arrested with a woman with the first name of Andrea?---Yes,  
10:06:50 3 that's what's written, yes.  
4  
10:06:53 5 Then here we have, "HS told her to say no comment and gave  
10:07:02 6 the standard legal advice". So there Ms Gobbo is revealing  
10:07:08 7 what advice she gave to Andrea, you agree with that?---Yes,  
10:07:14 8 she is.  
9  
10:07:19 10 Then if we can go down to p.240. We there have John Higgs  
10:07:38 11 contacting Ms Gobbo. "He also wants HS to sort out why  
10:07:45 12 police have seized Andrea's passport when she is being  
10:07:49 13 charged on summons", and Ms Gobbo's passed that information  
10:07:53 14 on to you, you agree with that?---Yes.  
15  
10:08:01 16 If we can move then to - if I can just have one moment.  
10:08:18 17 Page 599 of 2958. This is once you resume handling in  
10:08:30 18 September of 2008 after the tomatoes tins arrests and after  
10:08:37 19 Ms Gobbo had visited John Higgs in the cells which you'll  
10:08:40 20 agree you would have been aware of. In relation to that,  
10:08:48 21 you understand that friends and family can't just attend  
10:08:53 22 upon someone who's recently been arrested in the cells,  
10:09:01 23 don't you?---No, I'm not familiar with that. I thought  
10:09:03 24 they could.  
25  
10:09:11 26 This entry, 10 September 2008 at 9.40. "Message from 2958  
10:09:26 27 includes Paul Rowe has rang this morning looking for an old  
10:09:31 28 address of John Higgs". You received that message; is that  
10:09:40 29 right?---Yes.  
30  
10:09:46 31 At this point you knew that Ms Gobbo had previously been in  
10:09:54 32 a lawyer/client relationship with Mr Higgs back in the 90s,  
10:10:01 33 you agree with that?---No, no.  
34  
10:10:05 35 You knew that she had revealed or disseminated various bits  
10:10:12 36 of information to you that you had passed on to  
10:10:17 37 investigators?---What specific information?  
38  
10:10:24 39 Mr Woods took you through a number of pieces of information  
10:10:27 40 on Friday, do you recall giving that evidence?---In  
10:10:34 41 relation to Mr Higgs?  
42  
10:10:35 43 Yes?---No, sorry.  
44  
10:10:42 45 Well the record will speak for itself perhaps?---I  
10:10:46 46 understand.  
47

10:10:51 1 When this inquiry was made by Mr Rowe about an address of  
10:10:57 2 John Higgs, did you understand that John Higgs had been  
10:11:00 3 bailed the day before?---I'd need to check my diary, I'm  
10:11:08 4 not sure.  
5  
10:11:11 6 There's certainly no notation suggesting that you told  
10:11:16 7 Ms Gobbo not to pass on any information about Mr Higgs, is  
10:11:23 8 there?---To Mr Rowe?  
9  
10:11:29 10 That's right?---Yeah. No, there's nothing.  
11  
10:11:41 12 Thank you, Commissioner.  
13  
10:11:42 14 COMMISSIONER: Yes, thanks very much Ms Dwyer. Yes,  
10:11:45 15 Mr Wareham.  
16  
17 <CROSS-EXAMINED BY MR WAREHAM:  
18  
10:11:53 19 Thanks Commissioner. Mr Fox, can you hear me?---Yes, I  
10:11:56 20 can.  
21  
10:11:57 22 My name's Wareham and I'm for Mr Barbaro in this matter.  
10:12:03 23 You'll be relieved to hear this is going to be pretty short  
10:12:07 24 compass and I'm going to be really asking you some  
10:12:10 25 questions about a pretty confined issue around the tomato  
10:12:14 26 tins case, okay?---I understand.  
27  
10:12:18 28 Last week in answer to some questions by Mr Woods you said  
10:12:24 29 that the Drugs Task Force had some connection to Federal  
10:12:31 30 authorities, do you recall saying that?---Yes.  
31  
10:12:34 32 Mr Green, who'd formerly been a member of the SDU, as I  
10:12:39 33 understand it, was seconded to the Drugs Task Force, that's  
10:12:42 34 right?---That's correct.  
35  
10:12:45 36 Can you explain to me a little bit more about what  
10:12:48 37 connections there were between the DTF and the Federal  
10:12:57 38 authorities, to the best of your knowledge?---No, other  
10:13:00 39 than there was some type of joint agency agreement  
10:13:07 40 happening at the time or afterwards.  
41  
10:13:11 42 When you say joint agency agreement, would that be the  
10:13:14 43 Australian Federal Police, Customs, Victoria Police, the  
10:13:18 44 tax office, those kinds of agencies?---That's correct, and  
10:13:24 45 I'm not aware of the tax office but, yes, those other  
10:13:27 46 agencies. I believe there was discussions to form up some  
10:13:30 47 type of Task Force.

1  
10:13:31 2 I should be clear. I'm not suggesting that the tax office  
10:13:34 3 was part of it, I'm just suggesting that as an agency that  
10:13:39 4 may have been involved?---I don't know.  
5  
10:13:41 6 I'm sorry, I just cut of you off there?---I'm not aware of  
10:13:46 7 the tax office being involved.  
8  
10:13:52 9 Okay, thank you. Mr Green was aware of Ms Gobbo's status  
10:13:57 10 as a human source for Victoria Police?---Yes.  
11  
10:13:59 12 Mr Woods went through the ICRs about the tomato tins case  
10:14:09 13 in some detail and we won't traverse that again. But you'd  
10:14:13 14 agree, wouldn't you, that they disclose that you had a fair  
10:14:17 15 bit of contact with Ms Gobbo about this case?---Yes.  
16  
10:14:25 17 There are numerous references in there about - if my memory  
10:14:30 18 is correct - there was reference about her inquiring about  
10:14:34 19 the status of the investigation, et cetera; is that  
10:14:40 20 correct?---I can't think of a specific but she would have  
10:14:42 21 been and often she was frustrated because we weren't, or I  
10:14:46 22 wasn't sort of giving her information.  
23  
10:14:52 24 Between the time that Ms Gobbo first provided the bill of  
10:14:58 25 lading and brought it to your attention and when people  
10:15:02 26 were ultimately arrested in respect of the importation, the  
10:15:06 27 circle of people who were suspected of being involved grew,  
10:15:11 28 would you accept that?---Yes.  
29  
10:15:22 30 What's your recollection about how the information received  
10:15:26 31 from Ms Gobbo about the tomato tins case was passed to the  
10:15:34 32 Commonwealth authorities?---I'm unaware how or if it was.  
33  
10:15:38 34 You're unaware of if any of that information was passed to  
10:15:46 35 Customs or the Australian Federal Police, is that your  
10:15:49 36 answer?---No, I'm aware it was passed to Customs but not to  
10:15:58 37 the AFP.  
38  
10:15:59 39 Okay. And so what's your recollection about how that came  
10:16:02 40 about, to Customs I mean?---I wasn't there, I can't say  
10:16:15 41 how.  
42  
10:16:15 43 But do you have an independent recollection of  
10:16:18 44 circumstances around that time about how it got into  
10:16:24 45 Customs' possession? I'm not suggesting that you did  
10:16:27 46 anything, I'm asking, you know, what did you observe or  
10:16:30 47 hear or otherwise get information about?---I can't recall

10:16:46 1 but I'm aware that at least the container number was  
10:16:58 2 provided to Customs.  
3  
10:17:04 4 Do you have an independent memory of the day the arrests  
10:17:07 5 happened in respect of the tomato tins case?---I'm sorry,  
10:17:15 6 can you ask that again?  
7  
10:17:18 8 Do you have an independent memory of the day of the  
10:17:21 9 arrests? I think Ms Dwyer asked you some questions about  
10:17:23 10 the arrest date, but do you have an independent  
10:17:25 11 recollection of that day, I think it's 8 August 2008?---No,  
10:17:33 12 I don't. I was not at the office that day.  
13  
10:17:37 14 Okay. Ms Dwyer asked you a question a few moments ago  
10:17:45 15 about it being big news and that it was all over the media.  
10:17:51 16 Did you follow it in the media?---I can't recall.  
17  
10:18:00 18 During the time that it was in the media you knew all along  
10:18:06 19 that it was Ms Gobbo that was the catalyst for the  
10:18:10 20 investigations and ultimate arrests?---She definitely  
10:18:19 21 started the Victoria Police side information which  
10:18:26 22 indicated a large illicit import was coming into the  
10:18:38 23 country.  
24  
10:18:39 25 In that period immediately after the arrests did you speak  
10:18:42 26 to anyone from the AFP about this matter?---No.  
27  
10:18:49 28 So you didn't say to anyone at the AFP that they ought be  
10:18:54 29 careful of Ms Gobbo representing people who had been  
10:18:56 30 arrested as a consequence?---No.  
31  
10:19:07 32 I think you indicated to Ms Dwyer that you know Paul Rowe;  
10:19:14 33 is that right?---Yes.  
34  
10:19:16 35 And that you're aware that Mr Rowe was communicating with  
10:19:23 36 Ms Gobbo; is that correct?---Yeah, that entry I was just  
10:19:32 37 shown, she indicated that he had rung her.  
38  
10:19:35 39 Yes. Are you aware that they had an email exchange around  
10:19:45 40 the time of the tomato tins arrests?---No.  
41  
10:19:58 42 Mr Rowe's provided a statement to the Commission and I take  
10:20:02 43 it you haven't seen that?---No.  
44  
10:20:09 45 I'll read you a section of his statement. For those at the  
10:20:12 46 Bar table it's VPL.0014.0035.0051 at paragraph 177 of the  
10:20:23 47 statement. There's a precursor part and it says, "On 14

10:20:30 1 August 2008 I emailed her", her being Ms Gobbo, "stating  
10:20:38 2 'good result'. I do not recall what this was a reference  
10:20:41 3 to but I think it would have been a reference to someone  
10:20:45 4 arrested in relation to the tomato tins being denied bail,  
10:20:50 5 which was a good result because she was stressed about  
10:20:52 6 certain individuals being released on bail". I take it  
10:20:56 7 from your earlier answer you weren't aware of that  
10:21:00 8 communication?---On 14 August 08, no.  
9  
10:21:02 10 Mr Rowe goes on, and again for the benefit of those at the  
10:21:05 11 Bar table it's at .0052, again paragraph 177. Mr Rowe goes  
10:21:16 12 on to say, "In replies to that email she mentioned she had  
10:21:21 13 two big secrets but I never found out what she was  
10:21:24 14 referring to". Do you know what those two big secrets  
10:21:27 15 might be?---No.  
16  
10:21:30 17 When did you become aware that Ms Gobbo was representing  
10:21:35 18 Mr Barbaro?---I can't recall if I did at all.  
19  
10:21:51 20 Did you ever speak to Ms Gobbo about representing  
10:21:53 21 Mr Barbaro in this matter or any other person in respect of  
10:21:58 22 the importation?---I can't recall but if I did it would be  
10:22:06 23 in my contact reports.  
24  
10:22:07 25 So those reports will speak for themselves?---Yes.  
26  
10:22:12 27 As a general proposition - sorry, I cut you off there, that  
10:22:15 28 was an answer yes to that question, was it?---Correct.  
29  
10:22:23 30 As a general proposition you would accept, wouldn't you,  
10:22:25 31 the lawyer, barrister or solicitor has a professional  
10:22:29 32 obligation to act in the best interests of their  
10:22:32 33 client?---Yes.  
34  
10:22:33 35 You'd accept, wouldn't you, that an accused has an  
10:22:36 36 expectation that a lawyer who's been engaged to act on  
10:22:40 37 their behalf and had been paid to act on their behalf would  
10:22:43 38 in fact act in their best interests?---That's correct, the  
10:22:49 39 best interests within the limits of the law.  
40  
10:22:53 41 Okay. Do you accept that when deciding whether or not to  
10:22:57 42 engage a lawyer an accused person would be entitled to know  
10:23:01 43 about what conflicts of interest that lawyer had?---Yes.  
44  
10:23:12 45 You'd accept, wouldn't you, that in respect of Mr Barbaro,  
10:23:17 46 Nicola Gobbo was hopelessly and irreparably conflicted?---I  
10:23:29 47 can't agree with that.

1

10:23:30 2 You can't agree with that. You can't agree with the fact  
10:23:34 3 that she had provided information to Victoria Police that  
10:23:38 4 had led, at least from Victoria Police's part, to the  
10:23:41 5 identification of the largest importation of drugs in  
10:23:45 6 history and she then went on to represent Mr Barbaro and  
10:23:49 7 others and that you don't accept that she was - - -

8

10:23:53 9 MR CHETTLE: He already said he didn't know whether that  
10:23:56 10 was the case or not.

11

10:23:57 12 COMMISSIONER: I'll let him ask the question and clarify  
10:24:00 13 it. I'll let him clarify it. Go on, Mr Wareham.

10:24:02 14

10:24:03 15 MR WAREHAM: That she was not conflicted in those  
10:24:06 16 circumstances?---What I mean by that is I'm not aware that  
10:24:12 17 she was representing Mr Barbaro in 07 and I'm not familiar  
10:24:24 18 that she represented him in 08.

19

10:24:27 20 You understand the police officer's duties of disclosure in  
10:24:33 21 a criminal proceeding, don't you?---Yes.

22

10:24:35 23 And that all relevant material, exculpatory material, ought  
10:24:40 24 to be disclosed to an accused person?---Yes, subject to PII  
10:24:45 25 claims.

26

10:24:47 27 And do you accept that Ms Gobbo's status as a human source  
10:24:51 28 is a relevant factor that ought to have been  
10:24:54 29 disclosed?---That was a matter for Victoria Police.

30

10:25:00 31 Do you accept that it was a relevant matter that ought to  
10:25:03 32 have been disclosed to her - to Mr Barbaro, I'm sorry?---I  
10:25:10 33 think it's - I don't think that she provided evidence to  
10:25:25 34 those matters, intelligence.

35

10:25:30 36 I'm sorry, can you repeat that one more time?---I don't  
10:25:35 37 think she provided evidence to the matters that Mr Barbaro  
10:25:41 38 was charged with. She provided intelligence.

39

10:25:44 40 She provided intelligence that would have been used in  
10:25:48 41 proceedings against him potentially?---Potentially.

42

10:26:02 43 To your knowledge were any attempts made to bring this  
10:26:06 44 conflict of interest to Mr Barbaro's attention? I'm sorry,  
10:26:13 45 I withdraw that. To your knowledge were any attempts made  
10:26:16 46 to draw to Mr Barbaro's attention her status as a human  
10:26:20 47 source?---Not to my knowledge, no.



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With the benefit of hindsight do you accept now that Ms Gobbo was in fact conflicted in respect of representing Mr Barbaro?---I think she - yeah, she should probably not have been representing Mr Barbaro.

And do you accept that Victoria Police or other agencies ought to have been pro-active in attempting to avoid this conflict?---Agencies who knew, yeah, that'd be Victoria Police, but that's a matter for Victoria Police and the PII claim.

Of which you're a member?---Yes.

Mr Fox, they're all the questions I have for you.

COMMISSIONER: Thank you. Yes Mr Holt.

MR HOLT: Just one topic, Commissioner, and I should indicate this deals with matter that counsel for Mr Higgs raised and I'm doing this with her consent to correct a matter.

COMMISSIONER: Right, okay.

<CROSS-EXAMINED BY MR HOLT:

Mr Fox, my name is Saul Holt, I'm counsel for Victoria Police. I only have one matter to raise with you. You were asked some questions by Ms Dwyer for Mr Higgs earlier about an entry in the ICR dated 17 June 2007 and she also showed you an associated document described as a summary of extracts which we'll just pull up, it's VPL.4021.0001.0009. You recall you were asked some questions about the entry that appears at number 49 in that document on 17 June 2007 at 23:41 where there are - - - ?---Yes.

- - - a range of entries, they're not in bold which you confirmed were consistent with your entries in the ICR, do you recall that?---Yes.

And then immediately following there's a bolded entry indicating dissemination to Mr Green, "Possibility of fifth person to be Higgs. He will send a DTF scout out". I've read that correctly?---You've read that correctly, yes.

You confirmed with Ms Dwyer that that didn't appear in the

10:29:21 1 ICR?---Yes.  
2  
10:29:21 3 And she asked you to have a look at your diaries from that  
10:29:26 4 point forward and you couldn't find an equivalent entry, do  
10:29:32 5 you recall that?---That's correct.  
6  
10:29:34 7 In the meantime we've discovered in fact that that entry in  
10:29:36 8 the summary of extracts, ought to have been - if we can  
10:29:41 9 back to the full page, please, so remove the highlighting -  
10:29:43 10 ought in fact to have come effectively as part of the entry  
10:29:49 11 at 48. If I can ask you to confirm that by going to your  
10:29:53 12 diaries if you have them for the same date but a bit  
10:29:55 13 earlier, at 19:16 hours. It's p.72 of your hard copy diary  
10:30:03 14 if that assists?---72?  
15  
10:30:10 16 Yes?---Yes, at 19:16.  
17  
10:30:33 18 There's an entry - - - ?---"Spoke to Officer Green re  
10:30:36 19 possibility of the fifth person to be Higgs. He will send  
10:30:41 20 a DTF scout out", yes.  
21  
10:30:44 22 That should clarify why that entry otherwise doesn't appear  
10:30:48 23 in the summary of extracts at the right point. It was said  
10:30:52 24 but it was said at that time on that date?---That's what my  
10:30:58 25 diary indicates, correct.  
26  
10:31:00 27 Yes, thank you. That's the only questions, Commissioner.  
28  
10:31:02 29 COMMISSIONER: All right then. Is there any  
10:31:04 30 cross-examination from the State?  
10:31:06 31  
10:31:06 32 MR McDERMOTT: No, Commissioner.  
33  
10:31:08 34 COMMISSIONER: DPP?  
10:31:09 35  
10:31:09 36 MS O'GORMAN: No.  
37  
10:31:10 38 COMMISSIONER: Commonwealth DPP?  
39  
10:31:12 40 MS FITZGERALD: No, Your Honour.  
41  
10:31:14 42 COMMISSIONER: Re-examination, Mr Chettle.  
10:31:17 43  
44 RE-EXAMINED BY MR CHETTLE:  
45  
10:31:18 46 That last entry you were taken to, Mr Fox, there's been an  
10:31:22 47 error in cut and paste in relation to the ICRs, the summary

10:31:27 1 of extracts?---I need to look at the ICR.  
2  
10:31:31 3 You were asked about whether or not Mr Higgs, you knew  
10:31:34 4 Mr Higgs - sorry, Ms Gobbo had gone to visit Mr Higgs in  
10:31:38 5 the Custody Centre on a particular date. Remember  
10:31:41 6 questions about that?---Yes, I do.  
7  
10:31:43 8 Can I take you to ICR 87, please, which is at p.974 of the  
10:31:49 9 ICRs. On 3 July 07, p.974. It's got 2560 at the  
10:32:14 10 top?---Could that be made bigger, please?  
11  
10:32:16 12 974. There it is, thank you. Down the bottom. All right.  
10:32:24 13 Is this one of your ICRs?---Sorry, which ICR number?  
14  
10:32:29 15 87?---On the date of?  
16  
10:32:36 17 3 July 07?---Yes.  
18  
10:32:41 19 Ms Gobbo's attendance at gaol, do you have a note in that  
10:32:45 20 ICR as to why she would go to prison and visit people and  
10:32:51 21 why? The fifth dot point up from the bottom?---Yes. So it  
10:33:17 22 says, "They will want her to visit in gaol and pass on  
10:33:23 23 messages".  
24  
10:33:24 25 You were asked questions about whether friends and family  
10:33:26 26 can just turn up to the Custody Centre and you thought they  
10:33:29 27 could, but certainly lawyers can get free access to people,  
10:33:34 28 whether they're clients or not, is that your  
10:33:37 29 understanding?---Certainly easier access, yes.  
30  
10:33:44 31 Now I want to go back to some of the topics Mr Woods asked  
10:33:48 32 you. At p.6305 he asked you questions about the risk to  
10:33:52 33 Ms Gobbo that she might be killed. Remember that line of  
10:33:58 34 questioning?---Yes.  
35  
10:33:59 36 Is there anything unusual about a source being managed by  
10:34:02 37 the Source Development Unit, a high risk source, being at  
10:34:07 38 risk of being killed?---No, nothing unusual about it.  
39  
10:34:13 40 Indeed, is that why she's being managed by the Unit,  
10:34:19 41 because of that risk?---Yes, she was assessed as the  
10:34:25 42 highest of risks.  
43  
10:34:26 44 Indeed, is that the same with the other ■■■, I think you  
10:34:29 45 said, you managed at the time?---Correct, that was the -  
10:34:34 46 they were the only type of sources that were referred to  
10:34:39 47 the Source Development Unit.

1

10:34:40 2 Were there others in the Unit that had a higher risk  
10:34:43 3 perhaps than even Ms Gobbo, others being managed by the  
10:34:46 4 Unit?---Yes.

5

10:34:54 6 In particular were there - I'm not going to go to any  
10:34:59 7 details, but there were people involved in outlaw  
10:35:04 8 motorcycle gangs?---Possibly, yes. I can't recall now but  
10:35:11 9 they were some of the people that we managed, yes.

10

10:35:16 11 Okay. You were asked some questions by Mr Woods about risk  
10:35:25 12 assessments. I'll take you to, I think it's p.6307. The  
10:35:46 13 question you were asked by Mr Woods was this, "If another  
10:35:52 14 human source was being run at the moment in the period of  
10:35:55 15 three and a half years there would be more than two risk  
10:35:58 16 assessments done in relation to the individual at the start  
10:36:00 17 of the term as a human source" and you said, "Yes, the  
10:36:04 18 current policy says that". Do you remember that  
10:36:07 19 answer?---Yes, I do.

20

10:36:09 21 But you did not accept that there was a failing on behalf  
10:36:12 22 of the SDU not to conduct a more regular or larger number  
10:36:15 23 of risk assessments. At the stage of the - what policy  
10:36:21 24 applied at the time the risk assessments were conducted in  
10:36:24 25 relation to Ms Gobbo?---I believe it was the policy dated  
10:36:31 26 around 05 or 03.

27

10:36:37 28 Yes, go on?---It's in my statement, the relevant policy.

29

10:36:47 30 Has there been a change of police policy over the period in  
10:36:50 31 relation to the requirements for risk assessments?---Yes,  
10:36:55 32 lots.

33

10:37:04 34 You referred a number of times to the fact that a risk  
10:37:10 35 assessment or legal advice might have assisted you to  
10:37:12 36 manage the information received, do you remember using that  
10:37:17 37 expression?---Yes.

38

10:37:18 39 What do you mean by managing the information?---Information  
10:37:27 40 on boundaries in terms of legal professional privilege,  
10:37:34 41 that type of management of information.

42

10:37:43 43 Mr Woods took you to paragraph 39 of your first statement  
10:37:47 44 where you gave three examples of matters that you said  
10:37:50 45 related to the issue of legal professional privilege,  
10:37:53 46 remember that?---Yes.

47

10:37:55 1 He suggested to you that that really didn't answer the  
10:37:58 2 question that you'd been asked by the Commission in  
10:38:02 3 relation to that answer, do you remember?---Yes.  
4  
10:38:06 5 All right. In your second statement did you in fact  
10:38:14 6 amplify that and give a whole lot more examples of issues  
10:38:20 7 that would answer that question?---Yes, I did, paragraph  
10:38:24 8 21.  
9  
10:38:25 10 Thank you. Mr Woods asked you about a conversation you had  
10:38:43 11 with Ms Gobbo on 15 June 07 and at p.6315 he put a  
10:38:51 12 proposition to you that - I'll read it, "Can I suggest in  
10:38:57 13 the conversation what she was saying to you was that in her  
10:38:59 14 view, I'm not saying you encouraged or otherwise in this  
10:39:02 15 view, but in her view the moral impetus for talking to the  
10:39:06 16 police would win out over any obligation of privilege", and  
10:39:10 17 you said no to that, remember?---Yes.  
18  
10:39:14 19 Could you bring up VPL.0005.0137.0957, which is a  
10:39:29 20 transcript and audio, I hope, of the conversation of 15  
10:39:33 21 June 07 that you were just asked about. If you play it it  
10:39:48 22 will have names in it and we're in open session.  
10:39:53 23 Commissioner, can I ask that we go into closed session to  
10:39:56 24 play this just so I don't hold proceedings up.  
10:40:00 25  
10:40:01 26 MR WOODS: Can I just ask, has this been advised to the  
10:40:08 27 operator otherwise because we have the entire conversation  
10:40:10 28 that needs to be searched for a particular reference.  
10:40:10 29  
10:40:11 30 MR CHETTLE: No, No, I've given him five pages. I've given  
10:40:16 31 him the specific reference last week. Ten pages. 57 to  
10:40:20 32 67, I apologise, yes.  
10:40:21 33  
10:40:22 34 COMMISSIONER: All right. The order previously in place  
10:40:27 35 closing the hearing for this witness now applies. It will  
10:40:33 36 be necessary for those without leave to appear and their  
10:40:39 37 legal representatives, or those who aren't accredited  
10:40:47 38 media, to leave the hearing room.  
39  
40 (IN CAMERA HEARING FOLLOWS)  
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1 UPON RESUMING IN OPEN COURT:

14:10:20 2

3 RE-EXAMINED BY MR WOODS:

4

14:10:22 5 Officer Fox, can you hear me?---Yes, I can.

6

14:10:27 7 You were asked some questions this morning by Mr Higgs'  
14:10:31 8 representative Ms Dwyer about the hand over of the handling  
14:10:38 9 role from one handler to the next, do you recall  
14:10:42 10 that?---Yes.

11

14:10:43 12 And you said initially that, and in answer to some  
14:10:48 13 questions I asked you last week, that you would conduct a  
14:10:51 14 review of the ICRs so much as they were available at the  
14:10:55 15 date of hand over; is that right?---Yes.

16

14:10:58 17 And you'd review the former handler's diary; is that  
14:11:14 18 correct?---Not necessarily. Not handwritten diary, because  
14:11:18 19 I wouldn't be able to read it properly.

20

14:11:20 21 From the time of electronic diaries would it be normal  
14:11:26 22 procedure for you at that stage to review a diary if you  
14:11:29 23 were taking over the handling of Ms Gobbo?---It would be a  
14:11:32 24 source that I could use, yes.

25

14:11:34 26 Indeed, talking to the handler as well, the former handler  
14:11:39 27 as well would be another source as well; is that  
14:11:41 28 right?---Yes, the primary source.

29

14:11:45 30 You said that looking at the diary would be a source, would  
14:11:49 31 it be a usual source of information in that process of  
14:11:52 32 handing over as a matter of usual practice?---I wouldn't  
14:11:59 33 say usual practice. The usual practice was sitting down  
14:12:05 34 with the controller and the previous handler.

35

14:12:08 36 Yes?---And then after that if I were to go and look up  
14:12:13 37 things they talked about for me to familiarise myself with,  
14:12:19 38 I could go to their diaries or ICRs.

39

14:12:24 40 As a general matter of course you wouldn't be looking at  
14:12:26 41 the diaries, you'd be getting your information from ICRs  
14:12:29 42 and conversations with the other handler; is that  
14:12:35 43 right?---Yes, primarily, yes.

44

14:12:36 45 In relation to the ICRs, can you explain the process as it  
14:12:41 46 stood at the time of you obtaining access to the ICRs.  
14:12:45 47 Where did they physically sit?---For 3838 they were moved

14:12:52 1 to the Z drive, which was a stand alone computer at the  
14:12:56 2 Source Development Unit office.  
3  
14:12:58 4 If you were in the process of taking over the handling of  
14:13:01 5 Ms Gobbo you would go to a computer that was attached to  
14:13:05 6 the Z drive and scroll through the ICRs in that manner; is  
14:13:09 7 that right?---I could, yes.  
8  
14:13:13 9 I assume that that's a system that's only available within  
14:13:16 10 the confines of the SDU?---That's right, it was a stand  
14:13:20 11 alone computer.  
12  
14:13:22 13 What if they hadn't been completed, would you still look at  
14:13:25 14 the ones that were available on that database, the last  
14:13:29 15 ones that had been completed, or would you not bother if  
14:13:32 16 there was a huge lag in time between the last ones that had  
14:13:36 17 been completed?---If they weren't completed then I couldn't  
14:13:40 18 look at them.  
19  
14:13:42 20 What I'm asking is would you then go back and look at the  
14:13:45 21 ones that had been completed previously?---Yes, I could  
14:13:51 22 look at the ones that were on the Z drive, yep. I had  
14:13:55 23 access to everything on the Z drive.  
24  
14:13:56 25 The reason I'm asking these questions, it's important for  
14:13:59 26 the Commission to understand, in circumstances where there  
14:14:02 27 was sometimes a lag between the receipt of the information  
14:14:05 28 and the recording in the ICR, it's important to understand  
14:14:08 29 how up-to-date the system was and how a new handler might  
14:14:12 30 familiarise themselves with the ICR. That's the reason that  
14:14:16 31 I'm asking these questions, just so you're aware of  
14:14:20 32 that?---I understand.  
33  
14:14:21 34 Sorry, do you understand?---Yes, I do.  
35  
14:14:24 36 In that regard if you take the example of a medical  
14:14:27 37 practitioner, for example, a GP who might see a particular  
14:14:32 38 patient, my understanding of that situation is that that  
14:14:37 39 patient's file would be updated in real time, essentially,  
14:14:41 40 so that the next person seeing the patient down the track  
14:14:44 41 might - the next medical practitioner seeing the patient or  
14:14:49 42 that medical practitioner might have up-to-date information  
14:14:53 43 as to the relevant matters that relate to that patient, do  
14:14:55 44 you understand what I'm saying there?---Yes, I do.  
45  
14:14:57 46 And that was one of the purposes of the ICRs, so that they  
14:15:01 47 could be a reference for the new handler; is that

14:15:08 1 right?---The purpose of the ICR was to formally document  
14:15:13 2 the contact with the source.  
3  
14:15:16 4 And they were - - - ?---That ended up at the Human Source  
14:15:21 5 Management Unit and a copy was kept at the Source  
14:15:24 6 Development Unit.  
7  
14:15:24 8 Yes, okay. Is it the case - Mr Chettle was asking you some  
14:15:31 9 questions, or it might not have been Mr Chettle, someone  
14:15:34 10 was asking you some questions earlier about a significant  
14:15:37 11 lag in time that appears to be apparent on the documents,  
14:15:43 12 the ICRs available to the Commission. Was it your  
14:15:47 13 experience that during your time handling Ms Gobbo that at  
14:15:51 14 times the ICRs would be weeks behind?---Yes, weeks, and  
14:15:56 15 since reviewing source development records and Loricated,  
14:16:02 16 since I've been back preparing for the Commission I would  
14:16:06 17 say it's gone to sometimes months.  
18  
14:16:09 19 In excess of 12 months I think there's at least an example  
14:16:12 20 of, do you accept that?---Yeah, when I did hear that I  
14:16:21 21 didn't at the start. I still haven't seen one that's gone  
14:16:26 22 12 months but I have seen ones that have gone months.  
23  
14:16:29 24 I see. You would expect then that the HSMU, which one of  
14:16:33 25 the purposes of the preparation of these documents you've  
14:16:36 26 just said was to provide to them so they were aware of the  
14:16:40 27 status of Ms Gobbo, the information available to them would  
14:16:46 28 have been on those occasions the same amount of months  
14:16:49 29 behind; is that correct?---They couldn't be provided to the  
14:16:56 30 Human Source Management Unit until they were complete and  
14:16:58 31 checked, yes.  
32  
14:16:59 33 Yes, okay. One of the things of interest, and I'm going to  
14:17:08 34 ask you some questions about it in a little while, is that  
14:17:11 35 the difference - you were talking about - in fact I might  
14:17:15 36 ask you these questions now. This relates to some evidence  
14:17:19 37 that you gave in answer to Mr Chettle's questions earlier  
14:17:22 38 about there being discrepancies in the ICRs that the  
14:17:28 39 Commission has and the ICRs that you've looked at. Is that  
14:17:34 40 the substance of your evidence or have I got that  
14:17:38 41 wrong?---Yes, discrepancies in the ICRs I've looked at with  
14:17:43 42 the ones that are on Loricated.  
43  
14:17:45 44 What I'm interested in is the actual content of the ICRs.  
14:17:48 45 What I want to put to one side is where a particular name  
14:17:51 46 might be redacted or amended for PII or other reasons.  
14:17:57 47 What I'm wanting to understand is the documents that the



14:18:00 1 Commission has and it's been relying on, we have seen  
14:18:04 2 various versions of each ICR have been produced to the  
14:18:11 3 Commission and we understand we have the entire Loricated  
14:18:13 4 database and we understand that we have various ICRs that  
14:18:16 5 might not have been in the Loricated database, but what has  
14:18:21 6 been seen is that the actual content of those ICRs appears  
14:18:24 7 to be the same on each of the versions of the ICRs. The  
14:18:29 8 reason I'm asking you this, it might be open to understand  
14:18:32 9 your evidence earlier to mean that there are - there's an  
14:18:37 10 ICR with whatever hypothetical number, there's a version of  
14:18:41 11 it that you have which has entirely different content to  
14:18:44 12 the ICR of the same number that the Commission has, or even  
14:18:48 13 slightly different content. Can you explain that to the  
14:18:51 14 Commission, please, what your experience is of looking at  
14:18:54 15 these?---Yes, I've found, I've seen an ICR, from memory  
14:19:03 16 it's around in the 40s, mid-40s, for 3838, where the ICR  
14:19:10 17 that the Commission has is totally different to the  
14:19:12 18 original ICR.

19  
14:19:13 20 I understand - sorry, I don't mean to cut across you but I  
14:19:17 21 think I understand your answer. There's an ICR 45 that was  
14:19:24 22 missing, hadn't been produced, then was later produced.  
14:19:28 23 Might it be you're talking about ICR 45. You might not  
14:19:32 24 know the story of its production to the Commission, but  
14:19:37 25 might that be the case, that there's a different version of  
14:19:40 26 ICR 45?---Yeah, there's the source development original  
14:19:45 27 version and the version that's on Loricated.

28  
14:19:50 29 We now have the original version of that. Just putting  
14:19:53 30 that particular ICR to one side, have you seen differences  
14:19:57 31 in content in the other ICRs between versions you've been  
14:20:01 32 looking at and versions that have been put to you by me and  
14:20:04 33 that you've seen in the process of preparing to give  
14:20:06 34 evidence?---In relation to content, by and large it's how I  
14:20:17 35 remember it and it's the same as the ICRs on the Source  
14:20:20 36 Development Unit.

37  
14:20:20 38 When you say "by and large", I want to be precise about  
14:20:24 39 this because obviously it's very important to the  
14:20:25 40 Commission's task. Have you seen differences in content  
14:20:29 41 between what would otherwise look to be the same  
14:20:35 42 ICR?---Only that ICR 45 and from that ICR every number is  
14:20:43 43 wrong.

44  
14:20:45 45 I understand. That's not what I'm asking. I'm just asking  
14:20:48 46 about the content of other ICRs, not necessarily just their  
14:20:52 47 numbers but the content. Do I understand your answer to be

14:20:54 1 no, you haven't seen differences in content?---No.  
2  
14:21:00 3 Thank you. There are some ICRs I just need to take you to  
14:21:06 4 briefly. On Friday I asked you a question, one of the  
14:21:12 5 early questions I asked was whether or not, what the status  
14:21:18 6 of Ms Gobbo as a human source was during your time of  
14:21:21 7 handling Ms Gobbo. The following exchange took place at  
14:21:24 8 transcript 6294. I asked, "Encourage her to stay with the  
14:21:33 9 SDU and continue providing information which was your job I  
14:21:38 10 assume?" You said, "No". I then asked you to explain a  
14:21:42 11 bit more about building rapport. We then went through -  
14:21:49 12 you said, "The source never liked change of handler but it  
14:21:53 13 was a matter at the time I took over she was in what  
14:22:00 14 probably I'd call caretaker mode and part of my briefing  
14:22:03 15 was for, to her to assist in her ending the relationship  
14:22:06 16 with Victoria Police". You recall that evidence?---Yes.  
17  
14:22:09 18 And I then said to you that that was at 16 June 2007 and it  
14:22:15 19 was your understanding that that, what you'd just  
14:22:19 20 described, was that caretaker mode, was persisting after  
14:22:25 21 that period, from the 13th of - 16th of June 2007 until 13  
14:22:30 22 January 2009 and you said that was certainly your  
14:22:33 23 understanding of the situation with Ms Gobbo, do you recall  
14:22:36 24 that?---Yes.  
25  
14:22:38 26 Then I asked you about what caretaker mode means and I  
14:22:43 27 assumed that it meant that you wouldn't be obtaining  
14:22:46 28 information from Ms Gobbo and you said, "No, she wasn't  
14:22:50 29 tasked, however in the circle, the social circle that she  
14:22:56 30 kept, if she heard information in that situation then she  
14:22:59 31 would let us know". It was your intention that she not be  
14:23:03 32 tasked from any stage from when you began handling  
14:23:07 33 Ms Gobbo; is that correct?---That's correct, unless my  
14:23:14 34 controller said otherwise.  
35  
14:23:15 36 The answer should be, "I was not going to task her and that  
14:23:20 37 was my intention, but if the controller told me to do so  
14:23:23 38 then I would task her"; is that correct?---Yes.  
39  
14:23:28 40 In relation to Operation Briars, it's the case that  
14:23:34 41 Ms Gobbo was tasked by you on a number of occasions?---Yes.  
42  
14:23:41 43 I might just take you to a few of those so I can have an  
14:23:45 44 understanding of what occurred. If ICR 98 - now this is  
14:23:50 45 p.1183 - could be brought up on the witness's and my screen  
14:23:55 46 and the Commissioner's screen. This is 31 August 2007.  
14:24:01 47 It's at 22:07. "SDU management", you'll see towards the

14:24:14 1 bottom of the page, "Human source tasked that she is to  
14:24:16 2 ring me straight away re any calls or contact with David  
14:24:19 3 Waters or Stephen Campbell" and that's understood. Do you  
14:24:22 4 see that?---Yes.  
5  
14:24:23 6 That was a tasking that was given to her on 31 August  
14:24:29 7 2007?---Yes.  
8  
14:24:33 9 Information under there was part of the discussion with  
14:24:36 10 her, do you accept that?---Yes, I do.  
11  
14:24:50 12 Then if you scroll down to the next page, that's verbally  
14:24:54 13 disseminated, the above information, to Ron Iddles of  
14:25:00 14 Operation Briars and you updated your controller about  
14:25:03 15 that, that's correct?---Yes.  
16  
14:25:04 17 At p.1202, which is 8 September 2007 at 10.35 am, there's a  
14:25:13 18 call, "She was just ringing to let me know she's heard from  
14:25:19 19 Mr Waters this morning. He was going on about having  
14:25:22 20 decided to become a political activist and a conscientious  
14:25:26 21 observer". There's some further discussion down there and  
14:25:29 22 you've verbally disseminated that information to Mr Iddles  
14:25:34 23 of Operation Briars; is that correct?---Yes. I need to  
14:25:38 24 check my diary exactly what was disseminated.  
25  
14:25:42 26 Moving on. I mean the same issues don't persist here, I  
14:25:46 27 take it, there's no indication to you at this stage that  
14:25:49 28 she was representing Mr Waters; is that correct?---No.  
29  
14:25:55 30 At p.1211 on 12 September 2007 at 18:16. There's another,  
14:26:06 31 a heading there "Docket Waters tasking". It says, "She  
14:26:13 32 will text him if she wants to see him. Made up something  
14:26:16 33 about wanting a coffee or she saw him and waved and he did  
14:26:20 34 not see me". It goes on, "This will get him to come and  
14:26:25 35 see her. It won't be suspicious to him at all. Human  
14:26:28 36 source is confident of this". Now there's some information  
14:26:37 37 that you have been told that you want disseminated, that  
14:26:44 38 someone wants disseminated to David Waters; is that  
14:26:50 39 correct?---Yes.  
40  
14:26:51 41 That's in relation to that person whose name is in the -  
14:26:55 42 you don't need to read it out - sixth dot point; is that  
14:27:01 43 correct?---Yes.  
44  
14:27:02 45 And you told her that her task was to essentially give that  
14:27:10 46 information to Mr Waters, you agree with that?---Yes.  
47

14:27:15 1 Are you able to say who it was that told you that Ms Gobbo  
14:27:21 2 needed to be tasked to give that information to  
14:27:24 3 Mr Waters?---Yes, my controller.  
4  
14:27:31 5 That's Mr White?---Yes.  
6  
14:27:34 7 Do you know who told him to feed that information to  
14:27:38 8 Ms Gobbo?---Oh, no but I would imagine it would be a  
14:27:45 9 meeting with Briars and Mr Iddles.  
10  
14:27:47 11 And did you know whether this was true or false information  
14:27:50 12 that was being fed to Ms Gobbo?---I don't know.  
13  
14:28:03 14 Ms Gobbo indicated to you, as recorded in the bottom of the  
14:28:08 15 ICR, that she's happy to give that information as requested  
14:28:11 16 to Mr Waters, do you see that?---Yes.  
17  
14:28:12 18 And she also says she's happy essentially to invent a story  
14:28:19 19 as to how she came about receiving that information, do you  
14:28:23 20 see that?---Yes.  
21  
14:28:31 22 If you go down a bit further. Just there will do. You'll  
14:28:43 23 see just about halfway down the screen as it is at the  
14:28:47 24 moment Ms Gobbo agrees it best he come to her office, she's  
14:28:50 25 talking about Mr Waters here, and they meet downstairs at  
14:28:55 26 Wheat café. "It just looks like he is getting legal advice  
14:28:59 27 and Docket will be comfortable with this", do you see  
14:29:04 28 that?---Yes.  
29  
14:29:05 30 You accept that it was at least ambiguous at this stage  
14:29:09 31 whether or not it would be in a solicitor/client setting or  
14:29:15 32 not in a solicitor/client setting in which Mr Waters might  
14:29:20 33 be seeing Ms Gobbo?---I understood them not to be in a  
14:29:28 34 legitimate client/lawyer setting but as a cover for people  
14:29:32 35 looking.  
36  
14:29:34 37 Okay. That Mr Waters might want to use that as a  
14:29:37 38 cover?---Yes, it was a common thing for not only him but  
14:29:42 39 lots of associates and people she met, that was a common  
14:29:47 40 cover they would use.  
41  
14:29:48 42 I see. So that satisfied you then that the concerns I was  
14:29:54 43 putting to you about some other individuals last week  
14:29:57 44 didn't exist here because you had no indication it would be  
14:30:01 45 anything other than cover; is that right?---That's right,  
14:30:04 46 yes.  
47

14:30:04 1 Just as an aside, as you look through this ICR it seems  
14:30:08 2 that there are five or six quite substantive conversations  
14:30:14 3 from about 5 pm onwards, quite long detailed conversations.  
14:30:20 4 Was that an unusual thing with Ms Gobbo in your  
14:30:24 5 experience?---No, she would ring from first in the morning  
14:30:29 6 till late at night.  
7  
14:30:31 8 And sometimes just to chat or always to give  
14:30:34 9 information?---On my ICR they're general conversations, if  
14:30:45 10 we talked about it, but what's on the ICR is what we  
14:30:49 11 discussed.  
12  
14:30:50 13 At p.14 on 13 September 2007 at 1.11 pm she expects Waters  
14:30:57 14 to turn up that afternoon. Now this is the process of her  
14:31:02 15 providing this information that she's been requested to  
14:31:05 16 provide to him, you accept that?---By the looks of it, yes.  
17  
14:31:10 18 And then at p.1215, 13 September 2007 at 5.55 pm, so he's  
14:31:19 19 just left the office a few minutes ago, this is referring  
14:31:21 20 to Mr Waters. "He arrived unannounced as expected, he was  
14:31:26 21 very cautious that he was being followed - paranoid. He  
14:31:29 22 did not want to talk in her office. They had to talk in  
14:31:33 23 the stairwell of her offices" and there's some other  
14:31:36 24 information there and what happened is she's passed on the  
14:31:39 25 message that she was to pass on virtually verbatim to him,  
14:31:44 26 she says that about halfway down as recorded in the ICR,  
14:31:49 27 you see that?---Yes.  
28  
14:31:50 29 And he's accepted - her source of that information on face  
14:31:54 30 value is what she'd said to you?---Yes.  
31  
14:31:58 32 Then if you scroll down a bit further. Keep going down.  
14:32:01 33 Keep going down. Then you've, as I assume's required of  
14:32:09 34 you, rung Mr Iddles and said Ms Gobbo has now imparted that  
14:32:14 35 information to Mr Waters, do you see that?---Yes.  
36  
14:32:20 37 At p.1235, this is 19 September 2007 at 10.26 pm, there is  
14:32:32 38 general talk about how long they're out for dinner. Keep  
14:32:40 39 going. Keep going down. "General talk about Docket Waters  
14:32:44 40 and how she can be utilised to him more. Reminded she will  
14:32:50 41 not be used for any evidentiary purposes so as to protect  
14:32:55 42 her. She understands this." Do you know who was  
14:32:58 43 discussing with whom in this conversation, the general talk  
14:33:02 44 about how she can be utilised more with Docket Waters, was  
14:33:06 45 that her or you?---I can't recall.  
46  
14:33:12 47 All right. If you scroll down further. Sorry, it's p.1254

14:33:23 1 I'm after next, which is 1 October 2007. I'm after  
14:33:31 2 9.28 pm. It might be that's the entry above. Yes, just in  
14:33:40 3 there. She has asked you as the handler if you, the SDU,  
14:33:47 4 want her to try and make contact with Docket and you told  
14:33:50 5 her no. You'll check with investigators "but better if he  
14:33:55 6 tries to contact you", and there's the recording of some  
14:34:02 7 more information about another individual there. That's  
14:34:06 8 another conversation that you had where she was offering to  
14:34:09 9 do more in relation to assisting the SDU with Mr Waters; is  
14:34:14 10 that correct?---Yeah, correct.  
11  
14:34:15 12 Was that an usual thing for Ms Gobbo to do, to try and see  
14:34:19 13 where else she could help with a particular individual of  
14:34:22 14 interest?---No, it's not unusual. Where she does things  
14:34:28 15 like that I documented it.  
16  
14:34:31 17 Then you disseminate that, I think a bit further down, to -  
14:34:39 18 perhaps not with that one. Then I'm after p.1265. There's  
14:34:48 19 a long conversation there about Mr Waters. I should say  
14:34:53 20 this is 5 October 2007 at - - -  
21  
14:34:58 22 COMMISSIONER: I think it's the 4th, isn't it?  
14:35:00 23  
14:35:01 24 MR WOODS: Sorry, the 4th, yes. There's quite a deal of  
14:35:06 25 back and forth there about Mr Waters, his associates and  
14:35:12 26 their associates. Do you see that?---Yes.  
27  
14:35:19 28 There's some information, she says according to Mr Iddles,  
14:35:21 29 "It will definite not be Docket getting charged so he  
14:35:25 30 thinks he is right", do you see that?---Yes.  
31  
14:35:28 32 Then after this detailed conversation, if you can go down  
14:35:32 33 to the bottom of that entry, there's a verbal dissemination  
14:35:36 34 of that information to Mr Iddles, do you accept  
14:35:41 35 that?---Yeah, I'd have to check my diary, I'm not certain.  
36  
14:35:46 37 Because that might be recorded there in error perhaps, is  
14:35:48 38 that your reason?---No, because that's a long slab of  
14:35:52 39 information and maybe not everything was disseminated.  
40  
14:35:59 41 Okay. At p.1270, which is 5 October 2007, at 10.22 pm.  
14:36:14 42 You'll see another heading there "Docket Waters. Human  
14:36:19 43 source told not to hang around too late at the pub with  
14:36:22 44 Docket as it may be a big day/lunch where they'll all get  
14:36:26 45 drunk and she'll then only get self-serving dialogue". So  
14:36:32 46 you were ensuring that she was of the most value at this  
14:36:35 47 stage, I assume, by making sure that she's not put in a

14:36:39 1 situation where there's not going to be useful information  
14:36:43 2 disseminated, I assume; is that correct?---And for her  
14:36:45 3 safety.  
4  
14:36:46 5 And for her safety, I see. Scroll down from there. Page  
14:36:49 6 1280, which I think is ten more pages on. This is 8  
14:36:55 7 October 2007 at 9.46 pm. "Docket Waters tasking" is the  
14:37:02 8 heading. "Told human source that she can confirm to Docket  
14:37:05 9 that the hearing will definitely be Thursday. Direct  
14:37:08 10 presentment to the Supreme Court", et cetera, et cetera.  
14:37:12 11 You'll see at the bottom of that, "Verbally disseminated  
14:37:17 12 the above information to Ron Iddles", and you accept that's  
14:37:19 13 what occurred with this information?---I'd have to check my  
14:37:23 14 diary.  
15  
14:37:24 16 Do you have your diary with you, maybe you could turn it  
14:37:27 17 up?---8 October?  
18  
14:37:28 19 8 October 2007. If the operator is able to bring up on the  
14:38:04 20 screen VPL.2000.0001.3154. Sorry, I might have the wrong  
14:38:33 21 page number?---I've got the wrong - - -  
22  
14:38:35 23 8 October?---I've got the wrong year.  
24  
14:38:39 25 I see. That might be on the screen in front of you now in  
14:38:43 26 any event?---Okay, yes.  
27  
14:38:51 28 If you could scroll - if the operator could scroll down  
14:38:55 29 through that. Keep going. Keep going. Keep going. We're  
14:39:14 30 looking for 21:46. There we go. You'll see the top of  
14:39:22 31 that information is the same. If you could start bringing  
14:39:26 32 it down further and we'll just see. Keep going. The words  
14:39:40 33 "disseminated" are not in that entry; is that  
14:39:44 34 correct?---That's correct.  
35  
14:39:45 36 Does that mean your position is if it doesn't contain those  
14:39:51 37 words then it wasn't disseminated to Mr Iddles; is that  
14:39:54 38 correct?---No. If you scroll back up again.  
39  
14:39:59 40 Yes?---Further. On the right-hand side there's in red.  
41  
14:40:07 42 I see. This is what you were identifying before, the  
14:40:12 43 right-hand column for dissemination; is that  
14:40:14 44 correct?---That's right.  
45  
14:40:18 46 There's just a couple more of these in relation to Briars.  
47

14:40:23 1 COMMISSIONER: Can I just ask, can we infer from that, the  
14:40:26 2 red "Ron Iddles, Operation Briars", that all that  
14:40:29 3 information was disseminated?---No, you can't,  
14:40:35 4 Commissioner. Sometimes I was better at documenting  
14:40:40 5 exactly what was disseminated but that to me looks like I'm  
14:40:46 6 updating Ron on tasking that come from Briars. It looks  
14:40:51 7 like most of it would have but I can't say - there'll be an  
14:40:59 8 entry, if that's a late entry then it's a day where I'm  
14:41:03 9 speaking to Ron in my diary. If you scroll down. Yes,  
14:41:13 10 keep going. Keep going. The next day, yep.  
14:41:36 11  
14:41:36 12 MR WOODS: I think we're after 18:07?---Yeah, 18:07. I may  
14:41:41 13 not have spoken to him on that day.  
14  
14:41:44 15 I see. In fact that was the next ICR entry I was going to  
14:41:49 16 take you to but there might not be any need now that we  
14:41:53 17 have your diary in front of you. That's your  
14:41:57 18 contemporaneous note of the conversation that you had with  
14:42:01 19 Ms Gobbo on 9 October 2007; is that correct?---Yeah, 18:07,  
14:42:07 20 yeah.  
21  
14:42:08 22 The information that's in the centre column was  
14:42:10 23 disseminated to Mr Iddles of Operation Briars?---Yes, it's  
14:42:15 24 written in red on the right.  
25  
14:42:21 26 Look, I might just as a matter of fairness, there's an  
14:42:24 27 email that you weren't a party to but you'll recall that at  
14:42:30 28 the beginning of this questioning about Operation Briars I  
14:42:33 29 took you to an entry where there was information that you  
14:42:37 30 were asked to give to Ms Gobbo and then she was tasked to  
14:42:41 31 give it to Mr Waters, do you recall that?---Yes.  
32  
14:42:45 33 There's a document that can go up on the Commissioner's,  
14:42:53 34 mine and the witness's screen. What I'm taking you to  
14:42:56 35 here, Officer Fox, is just the information that you were  
14:42:59 36 then asked to give to Ms Gobbo. So this is  
14:43:10 37 VPL.6025.0001.6728. I won't read this because there's some  
14:43:16 38 names on it that require redaction. Look, it might not  
14:43:25 39 matter so much if it's not readily available because I can  
14:43:28 40 explain the content of it to you. I'll do that while we're  
14:43:32 41 looking for it. It's an email of 10 September 2007 at  
14:43:38 42 4.50 pm and it's from Mr Iddles and it's to Officer Sandy  
14:43:45 43 White and it's entitled "Information for 3838" and then it  
14:43:50 44 contains four dot points of information. It's on the  
14:44:00 45 screen. It should be on your screen as well?---Yep, I can  
14:44:06 46 see that.  
47



14:44:07 1 I took you to some other entries earlier where the  
14:44:12 2 conversation about Mr Waters began and I took you to 8  
14:44:18 3 September and then 12 September where the tasking of  
14:44:23 4 passing on this particular information to Mr Waters  
14:44:28 5 occurred and what I'm saying is that in the intervening  
14:44:30 6 period it appears that this is the email from Mr Iddles to  
14:44:35 7 Sandy White with the information that is to be given to  
14:44:41 8 Ms Gobbo to give to Mr Waters. Have a read of that and  
14:44:45 9 tell me if you think that's correct?---Yes, that's  
14:45:05 10 consistent with what I remember.  
11  
14:45:08 12 Just back to the ICRs at 1282. Sorry, I tender that,  
14:45:17 13 Commissioner, 10 September 2017 email from Mr Iddles to  
14:45:24 14 Officer Sandy White.  
14:45:25 15  
14:45:26 16 #EXHIBIT RC511A - (Confidential) Email from Mr Iddles to  
14:45:28 17 Officer Sandy White 10/09/07.  
14:45:28 18  
14:45:29 19 #EXHIBIT RC511B - (Redacted version.)  
14:45:32 20  
14:45:33 21 Then down the bottom of 1282 you've thanked Nicola Gobbo  
14:45:40 22 for her efforts today with Docket Waters, no calls until  
14:45:46 23 after 10 pm - sorry, no calls until after 10 pm tonight re  
14:45:54 24 - from a reading of that it appears you were saying to her,  
14:45:56 25 "Don't call me until after 10 pm tonight because I've got  
14:46:00 26 things on"; is that right?---I can't recall but probably,  
14:46:03 27 yes.  
28  
14:46:03 29 And given the next sentence that might make a bit more  
14:46:06 30 sense because it says, "Understood but clearly fishing to  
14:46:12 31 find out what I am doing and a bit worried she may not be  
14:46:15 32 the most important any more", do you see that?---Yes,  
14:46:19 33 that'd be me saying it.  
34  
14:46:22 35 Okay, I understand. All right. This morning you were  
14:46:32 36 taken to the transcript and an ICR that you and I had an  
14:46:40 37 exchange about last week to do with Ms Gobbo grappling with  
14:46:44 38 some moral issues, as opposed to legal issues, do you  
14:46:50 39 recall that, and Mr Chettle played you some audio? Do you  
14:46:53 40 remember that?---Yes.  
41  
14:46:54 42 If ICR 83, which is p.896, could be brought up on the  
14:47:01 43 screen, please. Again, I don't think this was a  
14:47:07 44 conversation - in fact I'm confident it's a conversation  
14:47:10 45 you weren't involved in but I might be wrong. Let's just  
14:47:13 46 bring up - - - ?---16th of - - -  
47

14:47:17 1 No, it's not you. Sorry, I think it's the 15th of the 6th  
14:47:22 2 07, 896. Just scroll to the top. Just up a bit more,  
14:47:35 3 sorry. Keep going, keep going. I just want to see the top  
14:47:38 4 of that entry. There's a meeting there and you're not one  
14:47:43 5 of the attendees at that meeting, do you agree with  
14:47:46 6 that?---No, I am.  
7  
14:47:48 8 Sorry, you are. In fact the transcript you were taken to  
14:47:54 9 earlier, what occurred was Mr White was really teasing out  
14:48:01 10 some of these issues to do with what might and might not be  
14:48:06 11 privileged, do you recall that?---Yes.  
12  
14:48:10 13 He put the proposition about whether or not Ms Gobbo could  
14:48:14 14 tell the authorities about a client who came to see her  
14:48:20 15 about some other reason, the client says, "But by the way,  
14:48:25 16 Nicola, some time in the past I killed someone". Do you  
14:48:29 17 remember that exchange in the transcript?---Yes.  
18  
14:48:33 19 There was an exchange about whether or not that disclosure  
14:48:37 20 might be protected by privilege, you remember that?---Yes.  
21  
14:48:42 22 What I'm suggesting to you is that that's an exchange that  
14:48:47 23 demonstrates that the SDU, including yourself, were very  
14:48:52 24 much alive to the concepts of privilege and were struggling  
14:48:56 25 with - well, were asking Ms Gobbo about her view of things  
14:49:01 26 that may or may not be privileged, that was the substance  
14:49:04 27 of that conversation, you agree?---Yes, yes.  
28  
14:49:07 29 And Ms Gobbo had a different view to Officer Sandy White in  
14:49:11 30 relation to the example that he gave her. She said it  
14:49:15 31 wouldn't be privileged and he said, "Well, in our training  
14:49:18 32 we were told that that particular thing is privileged". Do  
14:49:22 33 you recall that?---Yes.  
34  
14:49:25 35 She said it was privileged. Other way around, sorry. In  
14:49:28 36 any event, they had different views about whether or not  
14:49:31 37 that material might be privileged, you agree with  
14:49:33 38 that?---Yes.  
39  
14:49:36 40 You would accept now, having been taken to that transcript  
14:49:39 41 by your counsel, that because of the difference of views  
14:49:43 42 about privilege at this stage in the proceedings, 2007, it  
14:49:50 43 would have been a good idea at that stage as well to get  
14:49:53 44 legal advice to put the matter of privilege beyond  
14:49:57 45 doubt?---Beyond doubt, probably. We had concerns about her  
14:50:06 46 safety doing that. She also talked about transcript,  
14:50:13 47 there's a blurring of the lines, and that's probably we

14:50:16 1 were trying to get her understanding and ours.  
2  
14:50:19 3 Everyone was struggling with the concepts a bit it seems to  
14:50:23 4 me reading the transcript in the safe position of 2019.  
14:50:26 5 That was the situation, wasn't it?---Yeah, we were trying  
14:50:29 6 to understand her understanding of it to assist us, yes.  
7  
14:50:37 8 You were trying to understand it because it was an  
14:50:39 9 important thing, an important consideration, and you knew  
14:50:43 10 that it might affect the admissibility or the use of the  
14:50:48 11 information down the track, do you agree with that?---Yes,  
14:50:53 12 and part of our risk assessment on what to release and what  
14:51:00 13 not to.  
14  
14:51:05 15 There's an ICR - this is p.639 and I think it's one of  
14:51:10 16 Mr Anderson's ICRs. I think you were taken to this earlier  
14:51:22 17 this morning and if we can scroll down a bit further. Is  
14:51:36 18 this one of yours or one of Mr Anderson's ICRs, are you  
14:51:40 19 able to say?---Which date, sorry?  
20  
14:51:44 21 So this is the ICR that's on the screen that you were taken  
14:51:49 22 to earlier. Just scroll up. That's Mr Anderson's ICR, you  
14:51:56 23 see that?---Yes, I can, yes.  
24  
14:51:59 25 If the operator can scroll down to p.639. I might just  
14:52:03 26 have my page reference wrong, let me just see. If you  
14:52:15 27 could just scroll up to the next page, that might be the  
14:52:18 28 problem. I might have to come back to that one. There's a  
14:52:25 29 reference in the document - and I might get my instructors  
14:52:30 30 to have a look at that document. I'm looking for a  
14:52:36 31 reference to the proof of - what was occurring in relation  
14:52:39 32 to the discussions about the standard of the brief and  
14:52:42 33 we'll come back to it once that's been located, the  
14:52:46 34 standard of the brief of Zaharoula Mokbel. But on that  
14:52:51 35 issue, while we're bringing that up, on p.643, so a little  
14:52:58 36 bit further on - sorry, that's the reference I was looking  
14:53:06 37 for. You can see it's Mr Anderson's and Mr White's  
14:53:11 38 signatures down the bottom. "3838 states that the brief  
14:53:15 39 against Horty wife is of a poor standard", do you see  
14:53:18 40 that?---Yes.  
41  
14:53:20 42 If you can scroll down just to the bottom just so we can  
14:53:23 43 see. This is one of the ones that does have a date of both  
14:53:28 44 handler and controller, do you see that at the  
14:53:30 45 bottom?---Yes, I do.  
46  
14:53:34 47 If the operator could go to p.643. This is 19 January

14:53:43 1 2007. Again, there is a discussion - sorry, 19 February  
14:53:57 2 2007. There is a discussion in this ICR, you'll see above  
14:54:04 3 the word "psych." on the left-hand side, "Again discussed  
14:54:08 4 the poor standard of the brief against Zaharoula Mokbel",  
14:54:11 5 do you see that?---Yes.  
6  
14:54:13 7 If you can scroll down. Then at ICR - at p.653, this is  
14:54:23 8 ICR 67, again on 24 February 2007, there's another entry  
14:54:31 9 there about the poor standard of the brief. Is that p.656?  
14:54:51 10 Yes, all right. You'll see down the bottom, "Brief of  
14:54:55 11 evidence is of poor standard. Police can't prove the  
14:54:59 12 deception, missing statements, various points regarding the  
14:55:02 13 poor standard of the brief. Discussed an information  
14:55:06 14 provided to Purana via DDI O'Brien for information", do you  
14:55:10 15 see that?---Yes, I do.  
16  
14:55:11 17 Is that your ICR or is that Officer Anderson's?---That's  
14:55:15 18 Officer Anderson's.  
19  
14:55:17 20 Are you able to explain whether or not he passed that  
14:55:20 21 information on to DDI O'Brien?---I've had a look at those  
14:55:27 22 entries and specifically Mr Anderson's diary. He  
14:55:33 23 asterisked the part about Minotti in the diary. He then  
14:55:37 24 discusses it with Mr White on Monday. But the diary entry  
14:55:43 25 also talks about she wants to discuss her view  
14:55:49 26 face-to-face. So that caused me then to look at the next  
14:55:53 27 meeting, which was a week later or similar, and I was taken  
14:55:56 28 through parts of the transcript that relate to that.  
29  
14:56:03 30 Where you see the heading "Zaharoula Mokbel" on the  
14:56:07 31 left-hand side - I should say I accept that this is not  
14:56:10 32 your entry, this is Officer Anderson's entry and Officer  
14:56:14 33 Anderson is deceased, that's correct?---Yes.  
34  
14:56:16 35 Can I suggest to you that a reasonable interpretation of  
14:56:18 36 those three dot points, given that they all appear under  
14:56:22 37 the one heading of "Zaharoula Mokbel" is that what Officer  
14:56:26 38 Anderson in fact did was passed on Ms Gobbo's views about  
14:56:31 39 the poor standard of the brief of evidence to Purana by DDI  
14:56:36 40 O'Brien?---That's how it's written there.  
41  
14:56:42 42 Yes?---"Poor standard of brief discussed and information  
14:56:46 43 provided", yes.  
44  
14:56:50 45 And we saw the diary entry, I'm sorry, I don't have a  
14:56:54 46 reference for it initially, but the diary that was brought  
14:56:59 47 up on the screen earlier today. You accept that there was

14:57:01 1 in fact more information in the diary than is contained in  
14:57:06 2 these three dot points in relation to Zaharoula  
14:57:09 3 Mokbel?---Yes, there was.  
4  
14:57:10 5 And Minotti as well, there's information - - -?---Regarding  
14:57:15 6 Minotti, yes.  
7  
14:57:22 8 On the transcript that you were taken to earlier, now this  
14:57:26 9 is VPL.0005.0127.0356. If the operator could bring that  
14:57:39 10 up. Just to place this in time. The entry I've just taken  
14:57:44 11 you to of Officer Anderson's with those three dot points  
14:57:49 12 was on 24 February 2007. This was a transcript that you  
14:57:53 13 were taken to a little while ago by Mr Chettle on the 5th  
14:57:59 14 of the 3rd 2007, so a week or two after that conversation.  
14:58:09 15 The operator might have the audio to play but what I'm  
14:58:12 16 going to ask is the operator just plays an audio. Hang on,  
14:58:16 17 just a second, sorry. Ms Gobbo says, "I don't know, I  
14:58:23 18 don't know why Purana haven't". There's a pause, "I mean  
14:58:26 19 witness Renata Mokbel's affidavit". Mr Anderson says,  
14:58:32 20 "Yeah, you mentioned that, yeah". Ms Gobbo says, "I can't  
14:58:35 21 imagine why because Coghlan would have charged her without  
14:58:40 22 considering someone like me really. I was there. I  
14:58:43 23 witnessed the whole thing". Mr Anderson says, "And I have  
14:58:45 24 mentioned that to Jim too, you know, about the quality of  
14:58:48 25 that brief and the standard of it, so". Ms Gobbo says, "To  
14:58:52 26 Jim Coghlan?" Mr Anderson says, "No, Jim O'Brien, yeah".  
14:58:58 27 Ms Gobbo says, "They ought to be embarrassed. Fancy  
14:59:02 28 putting a ... to prove that and American Express card using  
14:59:05 29 or obtained credit by deceptive means mainly by saying she  
14:59:07 30 worked at Equiticorp Pty Ltd", et cetera, et cetera. If  
14:59:16 31 the operator could play that portion of the audio, please.  
14:59:45 32  
14:59:51 33 (Audio recording played to hearing.)  
14:59:51 34  
14:59:52 35 Stop there. You had an opportunity to hear that, did  
14:59:55 36 you?---I did, yes.  
37  
14:59:57 38 And you accept that what Officer Anderson was saying there,  
15:00:00 39 that he has mentioned the poor standard of the brief to  
15:00:04 40 Mr O'Brien, you accept that?---Yes, that's what he said.  
41  
15:00:08 42 And that's consistent with the record in the ICR, you agree  
15:00:12 43 with that?---Yes.  
44  
15:00:15 45 At p.692 of the ICRs, this is the 12th of the 3rd, you'll  
15:00:39 46 see there's an entry about Ms Mokbel there. Page 145 of  
15:00:46 47 the brief of evidence refers to an application from NAB

15:00:49 1 relating to Zaharoula. Charlie Minotti was involved in  
15:00:54 2 this application yet no statement appears in the brief of  
15:00:57 3 evidence. This is consistent with what Ms Mokbel had  
15:01:03 4 explained, do you agree with that - Ms Gobbo, sorry, I  
15:01:09 5 might have said Ms Mokbel. What Ms Gobbo had explained  
15:01:14 6 about Ms Mokbel's brief of evidence, I meant to say?---Yes.  
7  
15:01:20 8 What she'd said to Mr Anderson specifically, you agree with  
15:01:23 9 that?---Yes.  
10  
15:01:24 11 And that there's an issue there, p.200, "Westpac loan.  
12 Manager Darren Barclay additional details required". Page  
15:01:33 13 167, "NAB loan, additional details required". Page 238,  
15:01:40 14 "Amex, additional details required. Police can't prove  
15 15 that Zaharoula have done anything. General discussion  
15:01:42 16 about 3838 not being involved in this matter and the  
15:01:44 17 consequences of being involved". Now that's information  
15:01:48 18 that Ms Gobbo was providing to the handler, you accept  
15:01:51 19 that?---Yes.  
20  
15:01:54 21 Then at p.735 you'll see there's an entry under  
15:02:19 22 Mr Lewenberg, who's obviously the solicitor for Ms Mokbel,  
15:02:23 23 "Nicola Gobbo wants to talk Lewenberg out of applying for a  
15:02:29 24 subpoena for Purana documents in relation to the defence of  
15:02:32 25 Zaharoula Mokbel. Nicola Gobbo is concerned about the  
15:02:35 26 existence of recordings, i.e. some particular transcripts  
15:02:38 27 that will highlight Ms Gobbo's involvement". You accept  
15:02:41 28 that that's what Ms Gobbo's position was as she explained  
15:02:49 29 it to the handler?---That was a constant fear of hers, yes.  
30  
15:02:53 31 And the reason why she was wanting to talk the solicitor  
15:02:55 32 out of subpoenaing documents is that it might be  
15:02:58 33 particularly dangerous because her name might appear in  
15:03:03 34 them?---That's what it says there, yes.  
35  
15:03:08 36 You accept that the reason that a solicitor would apply for  
15:03:11 37 a subpoena on behalf of their client is to further their  
15:03:15 38 client's interests, that's why they're doing it, do you  
15:03:18 39 agree with that?---Yes.  
40  
15:03:20 41 And so this difficult position arose for Ms Gobbo in this  
15:03:25 42 situation, I suggest, that she was conflicted between the  
15:03:29 43 two things, one was Mr Lewenberg applying for a subpoena to  
15:03:34 44 get information from Purana and the other was that the  
15:03:38 45 information might disclose her role as a human source, that  
15:03:41 46 was the situation?---I'm not sure as a human source but as  
15:03:50 47 the issue with - - -

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Someone who was involved in a particular person providing assistance to the police?---That's right, and the Mokbels - and she didn't tell the Mokbels.

And in fact the person that she was concerned about whose name there is a person that she, firstly, she informed on, and based on that information that she gave to the police, the person was then arrested on that information, you agree with that?---Yes.

And that she came to the police station to then provide advice to that person upon their arrest?---She did go to the police station, yes.

Page 942 of the ICRs. This is the 26th of the 6th 07. I don't have a time stamp unfortunately. You'll see - scroll down. Keep going I think. It's at the bottom of the page. Is that p.942?

COMMISSIONER: Yes, it is.

MR WOODS: Okay, just give me a moment. I think I see it in the middle. Under "General talk" at 22:00. "Roula Mokbel. Human source thinks the brief against her is weak", do you see that?---Yes.

Then at p.1208 of that same lot of ICRs - now this is some time on. That last one was the 26th of the 6th 2007, and now I'm looking at the 1th of the 9th 2007. Bottom of the page. Just there. You'll there the words "Roula Mokbel committal", "She cannot get anyone to do this brief on Monday. Stephen Shirrefs can't. She's hoping Con Heliotis will. She confirms she won't be doing this case because we don't want her to but she knows why she can't", et cetera, et cetera. Then you'll read down about general discussion about how this can happen. "There's no lead up statement", she says, "██████████ has not signed the transcript. She's not even sure that ██████ knows this interview has been served. There's a real risk now the transcript will end up with Horty at ██████. Potentially put ██████ in danger for talking about the Mokbels on tape. On top of this Karl's matter has not finished and therefore the document should not be relied on. A lot of talk about how this could have happened. It does not seem right. Defence have not called for the documents. No mention of ██████ being a witness", et cetera, et cetera. What she's doing there is she's going

15:06:50 1 through aspects of the case against Ms Mokbel, you agree  
15:06:55 2 with that?---Yes.  
3  
15:06:56 4 Then down further on the next page, general discussion  
15:06:58 5 about how poor quality Roula's brief is in her opinion, do  
15:07:04 6 you see that?---Yes.  
7  
15:07:05 8 Just above that there's no mentions of 56A application, the  
15:07:09 9 defence were not going to rely on [REDACTED] The committal  
15:07:13 10 starts on Monday, a bit further down, and it says further  
15:07:19 11 down, "Action: verbally disseminated above information to  
15:07:23 12 Gavan Ryan and Jim Coghlan, Purana". You accept that  
15:07:27 13 that's what happened in that relation to that  
15:07:29 14 information?---I'll check my diary but I think there are  
15:07:35 15 entries there related to that, yes.  
16  
15:07:40 17 You accept this is your ICR?---Yes.  
18  
15:07:45 19 So the diary entry you're after is 11 September  
15:07:53 20 2007?---Yes, it relates to that issue.  
21  
15:08:08 22 For the operator this is VPL.2000.0001.3092?---Yes, on 12  
15:08:41 23 September I speak to Gavan and Jim.  
24  
15:08:48 25 Are you looking at the entry at 17:56, is that correct, in  
15:08:56 26 your diary?---No, 11.13 am.  
27  
15:09:02 28 Okay. Is it p.35 of 51 that you're looking at  
15:09:23 29 there?---Yes.  
30  
15:09:25 31 Are you looking under the heading "Wednesday, 12 September  
15:09:28 32 2007"?---Yes.  
33  
15:09:30 34 And you've got entries there that aren't redacted, is that  
15:09:33 35 right, the two bottom entries on that page?---Yes.  
36  
15:09:36 37 I call for those to be provided to the Commission. It's  
15:09:40 38 not a matter for you, Mr Fox, others will arrange that to  
15:09:46 39 happen I'm sure.  
40  
15:09:48 41 COMMISSIONER: Yes.  
15:09:50 42  
15:09:50 43 MR WOODS: If you could perhaps read it.  
44  
15:09:54 45 COMMISSIONER: I understand that will happen shortly.  
15:09:57 46  
15:09:57 47 MR WOODS: Just bearing in mind we're in open hearing,



15:10:00 1 you're allowed to mention Ms Mokbel, you're allowed to  
15:10:04 2 mention Ms Gobbo as well, you're allowed to mention  
15:10:08 3 Mr Coghlan, you're allowed to mention Mr Ryan?---It says  
15:10:13 4 11.13 am, "Spoke to Gavan Ryan. Explained documents served  
15:10:18 5 on Grigor yesterday and [REDACTED] [REDACTED]'s record of interview".  
6  
15:10:23 7 Yes?---"Gavan will check with Jim Coghlan and get back to  
15:10:28 8 me."  
9  
15:10:29 10 What you're saying is that is the conversation that you had  
15:10:33 11 with him about the information that was provided the day  
15:10:36 12 before?---Yes, it relates to how the record of interview  
15:10:40 13 could get on the brief.  
14  
15:10:44 15 Okay. So this was - I might just - hang on, just have a  
15:10:49 16 moment. I just want to look at the transcript for a  
15:10:55 17 moment. We might have a look at that entry once it's  
15:11:04 18 provided to the Commission. Does the entry under that have  
15:11:10 19 anything to do with the dissemination of the information  
15:11:13 20 from the day before?---No, but it relates to speaking to  
15:11:17 21 Jim Coghlan.  
22  
15:11:19 23 About Ms Mokbel or [REDACTED]?---Yes, it's about explaining  
15:11:26 24 how the record of interview ended up with, at Grigor's  
15:11:32 25 Solicitors and it's quite a lengthy entry but the bottom  
15:11:36 26 line is Mr Lewenberg asked for a different subpoena and he  
15:11:43 27 was given it by order of the magistrate.  
28  
15:11:46 29 I see. When we see the information - if the operator could  
15:11:50 30 bring us back to p.1208 of the ICRs. Just scroll down.  
15:12:14 31 Sorry, it's on the top of the next page. The words there  
15:12:19 32 "Action: verbally disseminated above information to Gavan  
15:12:22 33 Ryan and Jim Coghlan, Purana", are we to take that as  
15:12:28 34 meaning that some of the bits of information were verbally  
15:12:33 35 disseminated to Mr Ryan and Mr Coghlan?---Yes. It  
15:12:38 36 primarily relates to maybe the documents being released by  
15:12:44 37 mistake.  
38  
15:12:46 39 Yes, okay. You'll see just the words in the entry above,  
15:12:58 40 "General discussion about how poor quality Roula's brief is  
15:13:00 41 in her opinion". "I cannot comment as I have not seen it",  
15:13:05 42 that's what you said to her?---Yes.  
43  
15:13:07 44 And the brief relates to "OPPD obtaining property by  
15:13:08 45 deception re false loan applications", you agree with  
15:13:13 46 that?---Yes.  
47

15:13:17 1           Because, as I've said to you on a number of occasions, it's  
15:13:20 2           important for the Commission to understand as much as is  
15:13:24 3           possible, given the passing of time, what information was  
15:13:28 4           obtained by Ms Gobbo and what information was disseminated,  
15:13:33 5           you'd accept that a natural reading of that document that  
15:13:36 6           we've just - in fact the verbally disseminated part of it,  
15:13:40 7           would be that all of the above information was disseminated  
15:13:42 8           to Mr Ryan and Mr Coghlan? You accept that that's how it  
15:13:48 9           would be an understandable reading of that document?---No,  
15:13:54 10          I don't.  
11  
15:13:55 12          Why is that?---Well it's not - it's not clear but I never  
15:14:03 13          took it for people to understand that everything above an  
15:14:10 14          action verbally dissemination is disseminated. If I did do  
15:14:17 15          that then my ICRs would be even longer.  
16  
15:14:20 17          I understand, but given the difficulty, I assume, of giving  
15:14:24 18          evidence in an environment like this about these very  
15:14:28 19          documents, you'd accept that it would have been preferable  
15:14:33 20          for there to be some precision in the ICR about precisely  
15:14:38 21          which information was given to Gavan Ryan and Jim Coghlan  
15:14:42 22          verbally?---Yes, and in this particular case it's in my  
15:14:48 23          diary.  
24  
15:14:48 25          Your position is that that's an acceptable state of  
15:14:52 26          affairs?---It's in my diary, yes.  
27  
15:14:57 28          At 1262 of the ICRs, this is the 3rd of the 10th 2007 and  
15:15:08 29          it's ICR 103 and it's one of your ICRs?---Yes.  
30  
15:15:14 31          There's an entry there about Mr Rolfe knowing that Ms Gobbo  
15:15:20 32          had acted for a particular individual in the past, do you  
15:15:24 33          agree with that?---Yes.  
34  
15:15:26 35          This arose in an exchange between you and me last week  
15:15:31 36          where I was putting to you a position of conflict that  
15:15:35 37          Ms Gobbo found herself in in relation to this matter, you  
15:15:39 38          remember that?---Yes.  
39  
15:15:42 40          Are you aware of whether Ms Gobbo told Mr Rolfe why it was  
15:15:51 41          that she had an issue representing Mr Orman because of her  
15:15:55 42          association with that previous individual who was giving  
15:16:00 43          evidence against Mr Orman?---I believe because she'd acted  
15:16:07 44          before.  
45  
15:16:07 46          You believe that. Do you remember her saying it was  
15:16:10 47          because she'd acted for him?---To me?

1

15:16:13 2 Yes?---I don't recall now but it would be in my ICRs if she  
15:16:21 3 did.

4

15:16:21 5 As you know now, whilst she acted for him one of the items  
15:16:28 6 of significance in her acting for him is that she actually  
15:16:31 7 assisted that person in making statements against Mr Orman,  
15:16:34 8 do you agree with that?---Yes.

9

15:16:39 10 It's not clear to you whether or not she told Mr Rolfe  
15:16:42 11 about that aspect of her acting for that person, do you  
15:16:45 12 agree?---I don't recall what exactly she told Mr Rolfe  
15:16:55 13 other than she clearly said to me that she's told them that  
15:17:04 14 she's acted before, therefore it is contrary to - - -

15

15:17:09 16 Sure. You were taken to some entries - in fact you were  
15:17:17 17 taken to Justice Ginnane's decision at paragraph 32. If  
15:17:22 18 that could be brought up on the screen. That's a PDF  
15:17:34 19 document. Mr Chettle took you to this document and some of  
15:17:52 20 the other decisions that have been made about the  
15:17:56 21 relationship between Ms Gobbo and the SDU earlier and you  
15:18:02 22 critiqued aspects of those decisions, do you remember  
15:18:06 23 that?---Yes.

24

15:18:07 25 32, "Entries contained in Nicola Gobbo's ICRs", this is a  
15:18:12 26 quote from Mr Comrie I should say, "Taken at face value  
15:18:15 27 indicate that on many occasions Nicola Gobbo in providing  
15:18:20 28 information to the police handlers about Nicola Gobbo's  
15:18:23 29 clients has disregarded legal professional privilege". I  
15:18:28 30 assume you don't take issue with her disregarding legal  
15:18:32 31 professional privilege, is that right?---I don't take issue  
15:18:35 32 with her disregarding it?

33

15:18:37 34 That she did disregard it?---That she disregarded it? What  
15:18:44 35 - yeah, so she would speak to us sometimes in general  
15:18:49 36 conversation, we didn't disseminate that.

37

15:18:53 38 I understand. Furthermore, Mr Comrie says, "In some  
15:18:56 39 instances it's open to interpret that such conduct may have  
15:19:00 40 potentially interfered with the right to a fair trial for  
15:19:05 41 those concerned". Do you see that?---Yes.

42

15:19:07 43 When we were talking about Ms Mokbel's situation last week,  
15:19:13 44 this is Zaharoula Mokbel's brief of evidence, you gave  
15:19:18 45 evidence about what we had a fair deal of exchange about in  
15:19:25 46 relation to the potential that the verbal dissemination to  
15:19:30 47 Jim Coghlan on one occasion might have been a cut and paste

15:19:35 1 error. Do you remember your evidence on that front?---The  
15:19:38 2 verbal dissemination - - -  
15:19:40 3  
15:19:40 4 Yes, that's right. One of the possibilities you saw is  
15:19:43 5 that it might have been a cut and paste error, do you  
15:19:46 6 remember that?---Yes.  
15:19:47 7  
15:19:47 8 And you went on, you said, "It could be an error in the  
15:19:53 9 ICR, however it could also be that I have" and you accept  
15:19:56 10 that you said those words?---If that's what the transcript  
15:20:01 11 says, yes.  
15:20:01 12  
15:20:02 13 Mr Chettle took you to that a little while ago. So when  
15:20:07 14 Mr Comrie says, "Furthermore in some instances it is open  
15:20:12 15 to interpret that such conduct may have potentially  
15:20:15 16 interfered with the right to a fair trial, you would agree  
15:20:19 17 with those words given the fact that you've conceded that  
15:20:22 18 it's possible in Zaharoula Mokbel's case that you might  
15:20:27 19 have passed on that information verbally to Mr Coghlan, do  
15:20:31 20 you agree with that?---I don't agree that I said on Friday  
15:20:35 21 that it's inconsistent with my behaviour and I'm looking at  
15:20:43 22 entries on the weekend. I'm still, believe that I did not  
15:20:48 23 pass that on. I didn't speak to Jim Coghlan for some six  
15:20:52 24 weeks after that entry was made.  
15:20:53 25  
15:20:54 26 You say that but you also said on Friday it could be that  
15:20:57 27 you have, you don't resile from those words, do you?---I've  
15:21:01 28 looked further on the weekend around those entries and in  
15:21:04 29 terms of consistency of my behaviour, on 28 August she  
15:21:10 30 talks to me about a brief and I write that it's not  
15:21:14 31 disseminated. On 14 September she talks to me about  
15:21:21 32 defence strategies of Mr Priest and I write that it's not  
15:21:24 33 disseminated. On 24 September she talks to me about  
15:21:30 34 defence strategies I believe of Mr Orman and I write that I  
15:21:34 35 don't disseminate that. I think on 13 August she's also  
15:21:40 36 talking to me about poor standards of brief and I say to  
15:21:46 37 her she should be speaking to the OPP with that.  
15:21:50 38  
15:21:52 39 In other words you resile from your evidence on Friday that  
15:21:57 40 it might be that you have passed that on to  
15:22:04 41 Mr Coghlan?---From what I've read in those entries, I  
15:22:08 42 believe that I didn't.  
15:22:09 43  
15:22:09 44 This is simply an error in the ICR, is that  
15:22:13 45 right?---Correct.  
15:22:14 46  
15:22:14 47 All right. So then you do take issue, as I understand it,

15:22:20 1 or you continue to take issue with the fact that it is open  
15:22:24 2 to interpret that the conduct of Ms Gobbo may have  
15:22:30 3 potentially interfered with a right to a fair trial for  
15:22:36 4 those concerned. This is a focus on Ms Gobbo's own  
15:22:40 5 disregard for legal professional privilege?---So you talk  
15:22:43 6 about open for interpretation.  
15:22:46 7  
15:22:46 8 That's what Mr Comrie is talking about. This is a passage  
15:22:51 9 you took issue with earlier?---Clearly, Mr Woods, you've  
15:22:54 10 interpreted this part with Zaharoula one way and so it is  
15:22:59 11 open for interpretation.  
15:23:01 12  
15:23:01 13 As a matter of fairness I put to you what your words were  
15:23:05 14 on Friday which included, "However it could also be that I  
15:23:09 15 have". So I'm putting to you your own concession on that  
15:23:12 16 front rather than simply my interpretation. In any event -  
15:23:18 17 - -  
15:23:18 18  
15:23:18 19 COMMISSIONER: Could I add today when Mr Chettle took you  
15:23:23 20 to it and asked you about whether that information was  
15:23:27 21 disseminated to Jim Coghlan your evidence was it's possible  
15:23:31 22 you did disseminate it but you thought it was very  
15:23:36 23 unlikely. That's what I've written down that you said  
15:23:39 24 today to Mr Chettle?---It's - my evidence is it's unlikely.  
15:23:48 25 The more I've read it, especially over the weekend, I still  
15:23:53 26 have that belief.  
15:23:55 27  
15:23:57 28 Yes, but unlikely still, as you conceded to Mr Chettle,  
15:23:57 29 still leaves open that it was possible that disseminated  
15:24:02 30 it, do you agree? Well that's what you said, are you  
15:24:06 31 resiling from what you said to Mr Chettle?---I have clearly  
15:24:11 32 over the passage of however many years it is, I have no  
15:24:16 33 specific recollection.  
15:24:20 34  
15:24:22 35 MR WOODS: Just to finish off on that point. You were  
15:24:27 36 asked some questions earlier today about that entry that  
15:24:30 37 we've just been discussing. As I understood what you said  
15:24:33 38 in answer to one of the questions was a cut and paste error  
15:24:37 39 might well have come from a Word document. Is that the  
15:24:40 40 situation?---Yes.  
15:24:41 41  
15:24:41 42 And is that because there was firstly your electronic  
15:24:48 43 diary, then a Word document and then the ICRs that the  
15:24:53 44 initial information was taken from, the diary into a Word  
15:24:57 45 document and then into an ICR, is that correct?---What I  
15:25:01 46 mean by that is - yes, I would cut and paste. I'd verbally  
15:25:10 47 disseminate it or I'd have a shortcut in the Word program

15:25:14 1 that would, I would hit say two letters and it would, it  
15:25:18 2 would write the whole thing.

15:25:21 3

15:25:22 4 So that would have happened within the ICR rather than in  
15:25:24 5 the diary you're saying, is that right?---Correct.

15:25:29 6

15:25:29 7 Was there a Word document in between the diary and the ICR  
15:25:32 8 that you used?---We have a document - I had a document  
15:25:38 9 where I could cut and paste, especially the person's name.  
15:25:41 10 So you would see my ICR where there's names and full  
15:25:47 11 details of who they are, they were cut and pastes and I  
15:25:51 12 would also have dissemination cut and pastes.

15:25:54 13

15:25:54 14 What I'm asking is was there an actual, was there an  
15:25:58 15 electronic document that you used between the entry in your  
15:26:02 16 diary and the entry in the ICR or was it simply a cut and  
15:26:06 17 paste from the diary into the ICR?---So the cut and paste  
15:26:14 18 from the diary into the ICR and then the person of interest  
15:26:20 19 full names and other SDU management type headings would be  
15:26:24 20 another document that I would cut and paste in.

15:26:26 21

15:26:26 22 I'm sorry, I'm still not following. Did you use a document  
15:26:33 23 in between the diary and the ICR?---Yes.

15:26:37 24

15:26:38 25 So you would cut from or copy from all of the information  
15:26:44 26 from the diary, so much - I'm correct so far?---Yes.

15:26:49 27

15:26:49 28 And you'd paste it into a Word document?---The ICR, yes.

15:26:53 29

15:26:54 30 So the ICR is the Word document, we're not talking about  
15:26:58 31 some other interim document you used to be able to then  
15:27:02 32 copy into the ICR. You're talking about a copy from your  
15:27:05 33 diary to be pasted simply into an ICR which was a Word  
15:27:09 34 document, is that right?---We had a document called "usual  
15:27:13 35 suspects" and that was, that was kept with people's full  
15:27:18 36 names on it, so I would use that document.

15:27:22 37

15:27:22 38 So that you would have that open separately and you would  
15:27:25 39 copy the entries of those usual suspects and then paste  
15:27:32 40 them into the ICR where you would perhaps save time by not  
15:27:39 41 writing it into the diary, is that right?---Correct.

15:27:41 42

15:27:42 43 For example, those bold names where it has the details and  
15:27:45 44 an identifying police member for particular individuals,  
15:27:48 45 that was a cut and paste, is that right?---Correct.

15:27:49 46

15:27:50 47 They were shortcuts within that Word document, is that

15:27:52 1 right?---They were also, yes, in the program.  
15:27:56 2  
15:27:57 3 What you're suggesting is that one of the reasons that you  
15:28:02 4 suggest that this might have been a cut and paste error was  
15:28:05 5 because you had a shortcut for "verbally disseminated to  
15:28:09 6 Jim Coghlan, Purana", is that one of the shortcuts you had  
15:28:13 7 in that document are you saying?---No, the shortcut would  
15:28:17 8 be just "verbally disseminated to" and then I would add  
15:28:22 9 from there.  
15:28:23 10  
15:28:24 11 In other words you would have to turn your mind to the  
15:28:28 12 verbal dissemination and the words to be used about verbal  
15:28:32 13 dissemination and then put that under the entry in the  
15:28:35 14 ICR?---Correct.  
15:28:36 15  
15:28:39 16 So in which case can I suggest to you that that makes it  
15:28:42 17 even less likely that this was a simple cut and paste  
15:28:46 18 error, do you accept that?---No, I don't and the reason  
15:28:52 19 being is I spoke to Jim Coghlan only minutes before that  
15:28:58 20 call. I suspect I've mistaken that as a dissemination when  
15:29:02 21 it wasn't.  
15:29:03 22  
15:29:03 23 If that is an error you would accept that it's a most  
15:29:07 24 significant error in the ICRs, do you agree with  
15:29:15 25 that?---What do you mean by significant?  
15:29:17 26  
15:29:17 27 Given your evidence to the effect that legal professional  
15:29:22 28 privilege was something to be avoided at all costs and  
15:29:25 29 certainly in no circumstances to be passed on, given the  
15:29:31 30 words "verbally disseminated to Jim Coghlan", given what  
15:29:36 31 comes before it, was a very significant error for you to  
15:29:40 32 put into the ICRs, do you agree with that?---Yes.  
15:29:44 33  
15:29:47 34 COMMISSIONER: And weren't the ICRs supposed to be a record  
15:29:49 35 of what information was disseminated and when and  
15:29:56 36 how?---That's what the ICR's for. I believe I've made an  
15:30:02 37 error in that section.  
15:30:04 38  
15:30:07 39 MR WOODS: One of the decisions in relation to the  
15:30:09 40 relationship between Ms Gobbo and SDU that you were  
15:30:12 41 critical of earlier today was Mr Comrie's review of the  
15:30:20 42 SDU. You recall Mr Chettle's questions to you about  
15:30:23 43 that?---Yes.  
15:30:23 44  
15:30:24 45 I don't have a number for that but it might be able to be  
15:30:28 46 brought up on the screen. If you just bear with me for a  
15:30:33 47 moment. While that's coming up, there was an exchange

15:30:37 1 between you and Mr Chettle about the fact that the  
15:30:43 2 Interpose system was something that was created further  
15:30:46 3 down the track and wasn't even in existence when Ms Gobbo  
15:30:49 4 was registered as a source, you remember that?  
15:30:51 5  
15:30:52 6 MR CHETTLE: That wasn't - - -  
15:30:53 7  
15:30:53 8 MR WOODS: Sorry, I mis-phrased. It was the SDU's use.  
15:31:00 9 The SDU's use of the Interpose system was introduced for  
15:31:04 10 the SDU later down the track?---Yes, in 2009.  
15:31:11 11  
15:31:11 12 That was after Ms Gobbo's registration period?---Yes.  
15:31:15 13  
15:31:18 14 You're aware that Mr Comrie had access to the ICRs, you  
15:31:24 15 agree with that?---Yes, from the Interpose database.  
15:31:32 16  
15:31:32 17 We might need to bring up the Comrie review. It won't be  
15:31:41 18 far off and I might have a number. It's VPL.0005 - here we  
15:31:51 19 go.  
15:31:51 20  
15:31:51 21 COMMISSIONER: Are you going to be a little while yet?  
15:31:54 22  
15:31:54 23 MR WOODS: I'm almost done.  
15:31:55 24  
15:31:55 25 COMMISSIONER: Almost done, we'll keep going then.  
15:31:58 26  
15:32:00 27 MR WOODS: Page 12 of 61 is what I'm after. He goes  
15:32:10 28 through some anomalies that in his view occur in relation  
15:32:17 29 to his review of the ICRs. He says, "Despite indications  
15:32:21 30 that a number of file audits have been completed it is  
15:32:23 31 apparent that records are still missing from this file  
15:32:25 32 albeit that there are no gaps in ICR numbering to reflect  
15:32:29 33 this". He's saying that despite the numbers being as they  
15:32:34 34 are when he reviewed them there were some gaps, that's what  
15:32:38 35 he says, do you see that?---There were no gaps, yep.  
15:32:42 36  
15:32:42 37 Sorry, just to be clear about that. He says that the  
15:32:48 38 numbers appear to be sequential, however there's a period  
15:32:57 39 of 16/9 to 27/9/2006 that he hasn't seen the ICR for, do  
15:33:04 40 you agree with that?---Yes, which I think is around that  
15:33:07 41 mid-45 ICR we talked about.  
15:33:11 42  
15:33:11 43 He says that he's reviewed other ICRs and it indicates  
15:33:15 44 there was contact between that period and perhaps the  
15:33:18 45 Commission now has an answer to that because that missing  
15:33:21 46 ICR has now been located and provided to the Commission.  
15:33:25 47 But you accept that other than that anomaly that he



15:33:32 1 identifies there, it's the case that Mr Comrie had access  
15:33:37 2 to what appears to be almost all of the ICRs in his  
15:33:44 3 review?---That's what he says.  
15:33:47 4  
15:33:48 5 And you know that one of his recommendations was that all  
15:33:52 6 of the information relating to the relationship between  
15:33:55 7 Ms Gobbo and the SDU should be brought together, being  
15:34:00 8 diaries, ICRs, IRs, et cetera, do you agree with  
15:34:04 9 that?---Yeah, and audio.  
15:34:06 10  
15:34:07 11 And that's what eventually led to the Loricated  
15:34:13 12 database?---That's what I'm led to believe, yes.  
15:34:16 13  
15:34:16 14 Just two more brief topics, Commissioner. You were  
15:34:23 15 critical earlier of Justice Kellam's decision sitting as an  
15:34:31 16 IBAC Commissioner, do you recall that?---I was critical of  
15:34:35 17 him sitting as the - - -  
15:34:37 18  
15:34:37 19 Sorry, of his decision when he was sitting as an IBAC  
15:34:42 20 Commissioner in relation to the SDU, do you recall  
15:34:44 21 that?---Some of the things in his report, yes.  
15:34:48 22  
15:34:48 23 One of the things that you say is incorrect is that there  
15:34:52 24 were breaches of the Standard Operating Procedures, do you  
15:34:55 25 recall that?---Yes.  
15:34:56 26  
15:34:58 27 You agree that the Standard Operating Procedures in force  
15:35:01 28 at the time of Ms Gobbo's registration from 2005 to 2009  
15:35:06 29 made no reference whatsoever to verbal dissemination of  
15:35:10 30 information received by sources?---The SOPs didn't, no, not  
15:35:17 31 that I recall.  
15:35:18 32  
15:35:19 33 And you accept that on a review that one does of the ICRs  
15:35:24 34 that you were responsible for, that verbal dissemination is  
15:35:28 35 the norm for you, that's what you usually did?---Yes, and  
15:35:32 36 that was a direction from my controller based on the risk  
15:35:37 37 assessment.  
15:35:38 38  
15:35:40 39 So insofar as the standard operating procedure doesn't  
15:35:44 40 allow for - well it doesn't encounter or doesn't address  
15:35:49 41 the phenomena of verbal dissemination of information, you  
15:35:56 42 accept that that being the case, that there was indeed a  
15:36:00 43 breach of the Standard Operating Procedures because this  
15:36:03 44 method of dissemination that wasn't dealt with in the  
15:36:07 45 Standard Operating Procedures was in fact the norm for  
15:36:10 46 you?---No, it was a management decision on how to safely  
15:36:21 47 manage the source and I complied with that direction.

15:36:25 1  
15:36:26 2 Okay?---And where it was verbally disseminated the  
15:36:34 3 direction was it was to be recorded on the ICRs.  
15:36:36 4  
15:36:37 5 Just one final point. There was an exchange between  
15:36:40 6 yourself and Mr Chettle earlier about Justice Kellam's  
15:36:45 7 findings in relation to there being no risk assessment and  
15:36:50 8 you essentially disagreed with what IBAC said about that,  
15:36:55 9 you said really there was a risk - no risk assessment,  
15:37:00 10 sorry, prior to registration. You say that risk assessment  
15:37:04 11 was carried out face-to-face from the very beginning with  
15:37:06 12 Ms Gobbo, is that correct?---Yeah, the first, the first  
15:37:11 13 four meetings the handler and the controller both talk  
15:37:17 14 about, "We're in assessing mode. We're assessing this,  
15:37:22 15 we're assessing you", they say often in the first four  
15:37:25 16 meetings before that risk assessment is submitted.  
15:37:29 17  
15:37:29 18 You also gave evidence earlier that you can see the ongoing  
15:37:33 19 assessment of the risks pertaining to Ms Gobbo by reading  
15:37:37 20 the SML, do you agree with that?---Yes.  
15:37:40 21  
15:37:40 22 That's where the risks were considered and recorded in  
15:37:43 23 relation to Ms Gobbo, one of the places?---Correct.  
15:37:47 24  
15:37:47 25 It might be that when considering that decision of IBAC it  
15:37:55 26 was addressing, as I did last week, the lack of formal and  
15:38:02 27 one-stop shop type documents relating to the risk of  
15:38:06 28 Ms Gobbo, A, prepared prior to her registration and, B,  
15:38:12 29 prepared continually throughout her period of registration,  
15:38:16 30 not simply two done in the first six months. So if that's  
15:38:20 31 the proper interpretation of what Justice Kellam was  
15:38:23 32 saying, do you accept that that's a fair thing for IBAC to  
15:38:29 33 have concluded in relation to risk assessments and  
15:38:32 34 Ms Gobbo?---Yes, if IBAC were talking about formal risk  
15:38:36 35 assessments.  
15:38:37 36  
15:38:37 37 Yes?---I can see how he comes to that interpretation.  
15:38:44 38  
15:38:44 39 Thank you very much, Officer Fox, that's all I have.  
15:38:47 40  
15:38:48 41 COMMISSIONER: Thank you. Thank you Mr Fox, you're excused  
15:38:50 42 and free to go now. We'll have a ten minute adjournment  
15:38:54 43 and commence with the, resume with the next witness in open  
15:38:59 44 hearing still?  
15:39:00 45  
15:39:01 46 MR WOODS: I believe so, yes.  
15:39:02 47

15:39:02 1 COMMISSIONER: That's Mark Porter I understand.  
15:39:07 2  
15:39:07 3 MR WOODS: That's correct.  
15:39:08 4  
15:39:08 5 COMMISSIONER: All right then. Adjourn, please.  
15:39:30 6  
7 (Witness excused.)  
8  
9 <(THE WITNESS WITHDREW)  
15:39:32 10  
15:39:33 11 (Short adjournment.)  
15:52:34 12  
15:52:38 13 COMMISSIONER: Yes Ms Argiropoulos.  
15:52:39 14  
15:52:40 15 MS ARGIROPOULOS: The next witness is Superintendent Mark  
15:52:45 16 Porter.  
15:52:45 17  
15:52:46 18 COMMISSIONER: I understand you'll take the oath,  
15:52:53 19 Mr Porter, yes.  
15:52:53 20  
15:52:55 21 <MARK PORTER, sworn and examined:  
15:53:07 22  
15:53:09 23 MS ARGIROPOULOS: Your full name is Mark Steven  
15:53:13 24 Porter?---Correct.  
15:53:13 25  
15:53:14 26 Are you currently a Superintendent in the Human Resources  
15:53:19 27 Department of Victoria Police?---Yes.  
15:53:20 28  
15:53:21 29 Have you made a statement to this Royal Commission?---Yes.  
15:53:23 30  
15:53:24 31 Do you recognise that statement just in front of  
15:53:28 32 you?---Yes.  
15:53:29 33  
15:53:29 34 Is there an amendment that you'd like to make?---Only one  
15:53:37 35 in - - -  
15:53:37 36  
15:53:37 37 Is that on p.14, is it, the appendix?---Annexure - yes,  
15:53:47 38 sorry, p.14, E, 1985 should read 1987.  
15:54:00 39  
15:54:00 40 Thank you. Now subject to that amendment is your  
15:54:06 41 statement, to the best of your recollection, true and  
15:54:08 42 correct?---Yes.  
15:54:10 43  
15:54:10 44 Commissioner, I tender the statement. It's dated 15 August  
15:54:15 45 2019 and there is an unredacted and a redacted version  
15:54:20 46 available.  
15:54:22 47

15:54:24 1 #EXHIBIT RC512A - (Confidential) Statement of Mark Porter  
15:54:32 2 dated 15/8/19.  
15:54:32 3  
15:54:32 4 #EXHIBIT RC512B - (Redacted version.)  
15:54:34 5  
15:54:35 6 I'm happy to report that the redactions are actually agreed  
15:54:38 7 in relation to this statement. There is one person  
15:54:41 8 referred to in the statement whose name is currently  
15:54:44 9 blacked out. That's at paragraph 28.  
15:54:47 10  
15:54:47 11 COMMISSIONER: Yes.  
15:54:47 12  
15:54:48 13 MS ARGIROPOULOS: I wonder if a pseudonym should be  
15:54:51 14 assigned, that's a person who will be referred in other  
15:54:53 15 witness statements as well. It might be convenient for  
15:54:55 16 that to occur now.  
15:54:57 17  
15:54:57 18 COMMISSIONER: Yes, all right.  
15:54:58 19  
15:54:58 20 MS ARGIROPOULOS: It's proposed that she be referred to as  
15:55:01 21 Ms Lane and I think we're up to number 39.  
15:55:08 22  
15:55:08 23 COMMISSIONER: All right. 39 will be the name in paragraph  
15:55:16 24 28 of the witness's statement, will take the pseudonym  
15:55:21 25 Ms Lane.  
15:55:26 26  
15:55:26 27 MS ARGIROPOULOS: I've written that person's real name on a  
15:55:29 28 Post-it Note if that's of assistance.  
15:55:32 29  
15:55:33 30 COMMISSIONER: I have the unredacted statement here. Yes,  
15:55:35 31 that's probably of assistance to others, yes, thank you.  
15:55:40 32 Yes, thanks. Yes Ms Tittensor.  
15:55:49 33  
15:55:49 34 <CROSS-EXAMINED BY MS TITTENSOR:  
15:55:49 35  
15:55:52 36 Mr Porter, I just want to first of all in terms of a bit of  
15:55:56 37 background as to source management within Victoria Police,  
15:56:00 38 as I understand it prior to about 2003 everything was  
15:56:05 39 decentralised, is that right?---Correct.  
15:56:08 40  
15:56:08 41 So that the various different departments around Victoria  
15:56:15 42 Police that might utilise the information of informers  
15:56:18 43 would essentially run their own informers?---Yes.  
15:56:21 44  
15:56:24 45 In the following period it became centralised after  
15:56:30 46 2003?---Yes.  
15:56:31 47

15:56:33 1 And the Informer Management Unit came into  
15:56:39 2 operation?---Yes, that's what it was first called, yes.  
15:56:41 3  
15:56:41 4 And the word informer became human source at some point  
15:56:45 5 down the road, so every acronym we have with an I in it  
15:56:53 6 became HS for human source, is that right?---Yes.  
15:56:55 7  
15:57:00 8 There was one centralised register from that time, from  
15:57:06 9 around 2003, that contained the name of or the details of  
15:57:11 10 every human source in the state for Victoria Police?---Yes,  
15:57:16 11 that's correct.  
15:57:17 12  
15:57:20 13 Did that include the ESD or Ceja informers or was that  
15:57:26 14 still kept separately?---From memory that was kept  
15:57:32 15 separate.  
15:57:32 16  
15:57:33 17 So aside from ESD or Ceja informers, every other informer  
15:57:37 18 in the state was within this one centralised register for  
15:57:41 19 Victoria Police?---Every current informer, yes.  
15:57:46 20  
15:57:47 21 And why do you say current?---Because there was no back  
15:57:50 22 capture when the system was turned on. So anyone who was  
15:57:55 23 current had to be registered centrally, but anyone who had  
15:58:01 24 been previously registered and was no longer current  
15:58:04 25 because there was no de-registration process, was not  
15:58:08 26 registered.  
15:58:08 27  
15:58:09 28 Within the various departments that had operated informers  
15:58:14 29 prior to that time, some of them had deactivated informers  
15:58:18 30 over time but some of them just registered them and then  
15:58:21 31 regardless of whether they used them nothing happened with  
15:58:24 32 that registration, is that right?---That's correct.  
15:58:26 33  
15:58:27 34 Was it the case that over time those various registrations  
15:58:32 35 were sent in to HSMU to garner that information?---Yes, the  
15:58:39 36 hard copy records were sent in and stored centrally.  
15:58:43 37  
15:58:44 38 Where there was someone that was still currently an  
15:58:46 39 informer, was that added to their file?---There was, there  
15:58:55 40 was no way of adding a hard copy file to the electronic  
15:58:59 41 file. It just meant that the person who was still  
15:59:01 42 currently active as an informer was registered on the  
15:59:05 43 electronic system.  
15:59:06 44  
15:59:07 45 Did every informer have only an electronic system or was  
15:59:12 46 there a paper based system running as well?---There was a  
15:59:16 47 paper based system running as well.

15:59:19 1  
15:59:20 2 Where there was a paper based system you were able to add  
15:59:23 3 their old file on to that?---You could scan documents in  
15:59:30 4 and store them from memory, but it was nowhere near as  
15:59:33 5 sophisticated as the system that we have now.  
15:59:36 6  
15:59:40 7 In terms of the period that you were within the HSMU, I get  
15:59:49 8 those letters mixed around sometimes, but you were there  
15:59:53 9 from March 2006 to August 2010?---Correct.  
15:59:56 10  
15:59:56 11 And were you the Superintendent of the State Intelligence  
16:00:01 12 Division?---Correct.  
16:00:01 13  
16:00:03 14 Victoria Police itself had a number of different  
16:00:08 15 departments?---Yes.  
16:00:10 16  
16:00:12 17 For example, the Crime Department at the time you went in  
16:00:15 18 was headed by Assistant Commissioner Overland?---Correct.  
16:00:19 19  
16:00:20 20 The Legal Services Department at that stage was headed by  
16:00:24 21 Commander Luke Cornelius?---Yes, I think so, yes.  
16:00:28 22  
16:00:29 23 That changed I think shortly thereafter to Finn  
16:00:35 24 McCrae?---Yes.  
16:00:35 25  
16:00:36 26 The ESD or the Ethical Standards Department at that stage  
16:00:39 27 was headed by Assistant Commissioner Kieran Walsh and I  
16:00:43 28 think that at some stage in the process changed when, when  
16:00:50 29 Luke Cornelius was promoted to Assistant Commissioner so he  
16:00:54 30 came in from the other department when Finn McCrae - -  
16:01:00 31 -?---Yes, I can't specifically recall that it was Kieran,  
16:01:03 32 but it was possibly so.  
16:01:04 33  
16:01:04 34 The department name that you were in was the Intelligence  
16:01:10 35 and Covert Support Department?---Correct.  
16:01:10 36  
16:01:11 37 And that department was headed by Commander Dannye  
16:01:15 38 Moloney?---Correct.  
16:01:15 39  
16:01:16 40 And the State Intelligence Division, the specific division  
16:01:20 41 that you were Superintendent of, was one of a number of  
16:01:23 42 different divisions within that department?---One of two  
16:01:25 43 divisions.  
16:01:26 44  
16:01:26 45 What was the other division?---The Covert Support Division.  
16:01:29 46  
16:01:30 47 Who was the Superintendent for that division?---Tony

16:01:33 1 Biggin.  
16:01:33 2  
16:01:38 3 The State Intelligence Division that you were a part of had  
16:01:45 4 under its umbrella a number of units?---Correct.  
16:01:48 5  
16:01:49 6 And that included the Human Source Management Unit as one  
16:01:53 7 of them?---Yes.  
16:01:54 8  
16:01:54 9 And one of the other ones at that stage was the Dedicated  
16:01:58 10 Source Unit?---Yes.  
16:01:58 11  
16:02:03 12 We've had in the Commission quite a bit of evidence in  
16:02:06 13 relation to the nature of the work that was undertaken by  
16:02:09 14 the Dedicated Source Unit or as it became known the Source  
16:02:14 15 Development Unit, but we perhaps need a bit of a better  
16:02:17 16 understanding of how the Human Source Management Unit  
16:02:21 17 worked with that unit or the interrelatedness of those two  
16:02:28 18 units. Is it the case that the Human Source Management  
16:02:35 19 Unit, that was involved in training of members who perhaps  
16:02:38 20 went over to the SDU or informer managers?---So the Human  
16:02:46 21 Source Management Unit was responsible for the  
16:02:47 22 administration of the informer management function  
16:02:50 23 throughout the organisation and that included supporting  
16:02:53 24 promotion of the policy with regards to informers or human  
16:02:59 25 sources, and that also included the delivery of training.  
16:03:04 26 That training was broken into [REDACTED] [REDACTED] was  
16:03:09 27 the [REDACTED] of training and that was the training  
16:03:12 28 that was required for members at the Dedicated Source Unit.  
16:03:16 29  
16:03:17 30 It also provided training for members not in the Dedicated  
16:03:22 31 Source Unit but within other areas of the  
16:03:25 32 organisation?---Yes, correct.  
16:03:26 33  
16:03:28 34 It provided administrative support in relation to that work  
16:03:34 35 across the organisation?---Correct.  
16:03:35 36  
16:03:35 37 It audited compliance with policies and procedures?---Yes.  
16:03:41 38  
16:03:42 39 And it set operational policy, is that right?---It didn't  
16:03:49 40 itself set policy, it maintained the policy and when there  
16:03:56 41 were obvious improvements to be made there was an approval  
16:04:01 42 process through chains of command and that final approval  
16:04:07 43 would then set policy.  
16:04:09 44  
16:04:09 45 If there were clear deficiencies or as you might say,  
16:04:14 46 obvious improvements to be made, what would be  
16:04:18 47 done?---There's a process within the organisation for

16:04:20 1 amending policy. There's an area that supports policy  
16:04:24 2 development. We call it capability now, I'm not sure what  
16:04:28 3 it was called then. There is a process for consultation  
16:04:33 4 throughout the organisation if you're recommending a  
16:04:36 5 change, there's a liaison network that we go through, and  
16:04:40 6 then we're given feedback on the proposed change. The  
16:04:44 7 feedback's considered and then reported up the chain of  
16:04:47 8 command for final approval.

16:04:49 9  
16:04:49 10 How long would it take to get something changed if there  
16:04:52 11 was a deficiency or an improvement that needed to be  
16:04:56 12 made?--Well if something was very urgent you wouldn't use  
16:05:04 13 that process, you'd approach the policy area and have a  
16:05:09 14 Chief Commissioner's instruction issued if something was  
16:05:12 15 urgent. If something's not urgent it can take months or  
16:05:16 16 years.

16:05:17 17  
16:05:17 18 Is the Chief Commissioner's instruction issued for all  
16:05:22 19 sorts of things or is it just for urgent things?--No, no.  
16:05:26 20 A Chief Commissioner's instruction can be issued for all  
16:05:30 21 sorts of things. It usually starts off with the Chief  
16:05:34 22 Commissioner's instruction when there's a void in policy  
16:05:37 23 and then the adherence and application of that instruction  
16:05:41 24 is monitored and then hopefully it will slowly evolve as  
16:05:46 25 policy.

16:05:47 26  
16:05:47 27 When the centralisation occurred in terms of human source  
16:05:54 28 management within Victoria Police that occurred with a  
16:05:59 29 Chief Commissioner's instruction?---Yes.

16:06:00 30  
16:06:00 31 And that was in 2003 and then updated in 2005, is that  
16:06:05 32 right?---Yes, yes.

16:06:06 33  
16:06:06 34 If there was a serious deficiency, an urgent deficiency  
16:06:11 35 within that instruction, you would, what would you do, who  
16:06:14 36 would you go to?---You'd apply for an amendment to that  
16:06:21 37 Chief Commissioner's instruction and have the instruction  
16:06:24 38 reissued.

16:06:24 39  
16:06:25 40 Who would you apply to for that amendment?---You would go  
16:06:30 41 through your chain of command, through your department,  
16:06:34 42 then it would be sent across to the central policy area,  
16:06:37 43 then it would be considered as to whether we needed to  
16:06:41 44 consult throughout the organisation before making a change,  
16:06:45 45 or we may move to immediate issue of the instruction if  
16:06:48 46 it's urgent.

16:06:49 47



16:06:49 1 For you it would be Danye Moloney?---Yes.  
16:06:52 2  
16:06:58 3 If I can have brought up please VPL.0002.0001.2232. This  
16:07:13 4 is the Chief Commissioner's instruction in relation to the  
16:07:16 5 policy. This policy defines all sorts of roles within  
16:07:37 6 human source management, is that right?---Yes.  
16:07:39 7  
16:07:39 8 It defines what a handler is, what a controller is, and so  
16:07:45 9 forth?---Yeah, if you scroll down I believe it does, yeah.  
16:07:48 10  
16:07:50 11 I don't think we need to go right through it but you  
16:07:54 12 generally agree it's got all sorts of definitions and  
16:07:58 13 allocates roles?---Yes.  
16:07:59 14  
16:07:59 15 And it allocates roles based on your position within a  
16:08:04 16 department, for example, you were, as it's noted in this  
16:08:12 17 policy, the Central Informer Registrar, that became the  
16:08:16 18 Central Source Registrar with the new lingo, is that  
16:08:21 19 right?---That's correct.  
16:08:21 20  
16:08:21 21 If we go to p.2. You'll see that there the Central  
16:08:28 22 Informer Registrar is the Detective Superintendent of the  
16:08:32 23 State Intelligence Division?---That's correct.  
16:08:34 24  
16:08:34 25 And that was you when you were in that position?---Yes.  
26  
16:08:36 27 As at March 2006?---Yes.  
16:08:38 28  
16:08:39 29 The rung below that in human source management policy was  
16:08:44 30 the Local Informer Registrar, is that right?---Yes.  
16:08:48 31  
16:08:48 32 That was, if we scroll down, keep going to Local Informer  
16:09:00 33 Registrar, L. That's right, there. So what that does is  
16:09:07 34 define it as the Divisional Superintendent of a particular  
16:09:13 35 division that you're in, is that right?---Yes.  
16:09:15 36  
16:09:15 37 Or a department that you're in?---Yes.  
16:09:17 38  
16:09:18 39 So if I was in a different department, not the SDU that ran  
16:09:25 40 informers, that would be the Superintendent of that  
16:09:27 41 department?---Yes.  
16:09:29 42  
16:09:29 43 But because the SDU fell under your purview in the  
16:09:34 44 department that you were in, you were the Superintendent -  
16:09:38 45 Divisional Superintendent of them, is that right?---Yes,  
16:09:42 46 that's correct.  
16:09:42 47

16:09:42 1 So you were both the Local Source Registrar or a Local  
16:09:48 2 Informer Registrar as well as the rung above the Central  
16:09:53 3 Source Registrar for the SDU?---Yes.  
16:09:54 4  
16:09:54 5 You were the Central Source Registrar for everyone else as  
16:09:58 6 well?---Yes.  
16:09:58 7  
16:09:58 8 So you played a dual role in terms of the SDU in that  
16:10:04 9 position?---In the beginning, yes.  
16:10:06 10  
16:10:06 11 Then there's an officer-in-charge and that's supposed to be  
16:10:11 12 an officer as between the Local Informer Registrar and the  
16:10:16 13 controller. There was someone in the middle, is that  
16:10:22 14 right?---Correct.  
16:10:22 15  
16:10:23 16 And that role was to provide advice and guidance to the  
16:10:29 17 controller and the handler?---Yes.  
16:10:32 18  
16:10:33 19 To evaluate the information which was to be forwarded to  
16:10:38 20 the Local Informer Registrar?---Yes.  
16:10:41 21  
16:10:42 22 And essentially to act as a point of contact between the  
16:10:46 23 two?---Yes.  
16:10:47 24  
16:10:49 25 Can you say who that was in terms of the SDU when you  
16:10:53 26 arrived? Who was the officer-in-charge?---So when I first  
16:11:04 27 arrived we had an informal arrangement where the staff  
16:11:08 28 officer to the Commander was acting as the Inspector over  
16:11:13 29 the unit, Dean McWhirter, but he was not there on a  
16:11:21 30 continuous basis, so the officer-in-charge duties fell to  
16:11:26 31 the next senior member who I believe the Commission is  
16:11:30 32 referring to as Sandy White.  
16:11:32 33  
16:11:33 34 Sandy White was the controller and effectively the  
16:11:38 35 officer-in-charge, is that right?---At times, yes.  
16:11:41 36  
16:11:41 37 At times?---Yes.  
16:11:42 38  
16:11:44 39 But Dean McWhirter was officially the  
16:11:50 40 officer-in-charge?---Yes, but it was a very informal  
16:11:53 41 arrangement where he was normally the staff officer to the  
16:11:57 42 Commander but at times he assisted as being the Inspector  
16:12:01 43 over the Source Development Unit.  
16:12:03 44  
16:12:04 45 Who would sign off on documentation, is that right?---I  
16:12:08 46 would assume so, I can't recall that he ever did, but I  
16:12:11 47 would assume so.

16:12:12 1  
16:12:14 2 Perhaps in terms of any reward or the like, he might sign  
16:12:21 3 off on those kinds of things?---I would assume so.  
16:12:25 4  
16:12:25 5 Would the controller be able to do that?---The controller  
16:12:30 6 can make the recommendation. It should theoretically go  
16:12:34 7 through the officer-in-charge who makes the recommendation  
16:12:36 8 to the Local Informer Registrar.  
16:12:39 9  
16:12:42 10 Both the Local Informer Registrar and the Central Informer  
16:12:48 11 Registrar would also be involved in providing advice and  
16:12:51 12 guidance to members?---Yes.  
16:12:53 13  
16:12:57 14 In terms of your position when you were there, how were you  
16:13:00 15 carrying that out?---So - sorry, do you mean as both the  
16:13:07 16 Local Informer Registrar - - -  
16:13:09 17  
16:13:09 18 Yes?---It was quite clear to me there was an immediate  
16:13:13 19 conflict in the current arrangement so it was only a very  
16:13:16 20 short period of time before I made moves to have control of  
16:13:20 21 the Source Development Unit moved.  
16:13:23 22  
16:13:23 23 There was a period, you arrived in March and I think it was  
16:13:27 24 moved to a different umbrella around about the middle of  
16:13:31 25 the year, is that right?---Yes, I've tried to determine  
16:13:35 26 what date it was actually moved and we don't have those  
16:13:39 27 systems functioning now. It appears that it was certainly  
16:13:45 28 formalised at the beginning of the next financial year,  
16:13:48 29 which would have been 1 July 2006, but as to whether it was  
16:13:54 30 functioning out of state intel before that, I'm not - I  
16:14:00 31 can't recall.  
16:14:00 32  
16:14:00 33 That was one deficiency in the process that you noted and  
16:14:06 34 acted upon almost immediately upon you arriving at the  
16:14:12 35 HSMU, is that right?---At State Intelligence. I wasn't  
16:14:16 36 actually a member of - the HSMU was a unit within the  
16:14:20 37 division I was managing.  
16:14:21 38  
16:14:21 39 That was one deficiency within the policy framework or the  
16:14:25 40 structural framework that you understood immediately upon  
16:14:30 41 your arrival and steps were taken to fix that?---Yes,  
16:14:33 42 that's correct.  
16:14:34 43  
16:14:34 44 Were there any other deficiencies that were identified upon  
16:14:40 45 your arrival in the way things were running with the  
16:14:46 46 SDU?---I'm - I can't recall clearly but I'm not sure that  
16:15:00 47 the structure in the unit was settled at that time, so I'm

16:15:04 1 not even sure that they had permanent staff at that time  
16:15:09 2 because it was transitioning from project to business as  
16:15:13 3 usual at the time that I arrived.  
16:15:14 4  
16:15:14 5 One other potential deficiency was this lack of  
16:15:18 6 officer-in-charge position?---Yes.  
16:15:19 7  
16:15:19 8 How long was it before that was fixed up?---Well, on a  
16:15:26 9 day-to-day basis it was supposedly fixed up by having the  
16:15:31 10 staff officer perform that role, but how long before it was  
16:15:37 11 permanently, I can only say with certainty that it was  
16:15:41 12 permanently addressed from 1 July of that year.  
16:15:46 13  
16:15:48 14 If we can go to p.9 of that document, please. Paragraph  
16:16:07 15 28, that's right. I just want to ask you a few questions  
16:16:10 16 about the registration process. On receipt of a  
16:16:13 17 registration the Local Informer Registrar assesses the  
16:16:19 18 suitability of an informer, is that right?---Yes.  
16:16:22 19  
16:16:22 20 They make an evaluation of any risks?---Yes.  
16:16:28 21  
16:16:29 22 They consider potential risks?---Yes.  
16:16:33 23  
16:16:33 24 Is it to be expected that the Local Informer Registrar as a  
16:16:41 25 more senior officers than the officers who are submitting  
16:16:44 26 these registration forms would potentially appreciate risks  
16:16:48 27 beyond those that are contained within the  
16:16:54 28 registration?---It would be expected that the  
16:16:56 29 Superintendent would have a more strategic outlook than the  
16:16:59 30 members dealing with the source.  
16:17:02 31  
16:17:02 32 So they might be able to look at potentially this form and  
16:17:07 33 say, "Well, have you considered these other risks"?---Yes.  
16:17:11 34  
16:17:18 35 Is that a process that you undertook when you were  
16:17:24 36 considering such forms?---Yes. So I had other units, I  
16:17:33 37 don't think - this is not detailed in my statement, but I  
16:17:36 38 did have another unit that registered sources for my entire  
16:17:40 39 time at the division and I had to act as the LIR for that  
16:17:46 40 particular unit and, yes, I would.  
16:17:49 41  
16:17:50 42 You would analyse the forms, assess the risks and identify  
16:17:56 43 risks beyond those that had been identified by the member  
16:18:01 44 submitting the forms?---Yes, if there were any to be  
16:18:04 45 identified, yes.  
16:18:05 46  
16:18:05 47 And tell them to go back and reconsider and resubmit the

16:18:08 1 form with appropriate risk mitigation  
16:18:12 2 strategies?---Correct.  
16:18:12 3  
16:18:15 4 If you were looking at a form where an informer had already  
16:18:21 5 previously been registered and you noted that there were  
16:18:24 6 risks that hadn't been addressed within the previous risk  
16:18:28 7 assessment, what would you do?---I would make inquiries  
16:18:36 8 about addressing those risks.  
16:18:38 9  
16:18:50 10 If it became apparent to anyone in the process, the  
16:18:55 11 handler, the controller, the Local Source Registrar, the  
16:18:59 12 Central Source Registrar, that the use of an informer  
16:19:04 13 involved an infringement on someone's potentially infringed  
16:19:11 14 a third person's fundamental legal rights, what would you  
16:19:15 15 do?---Well, I think it's more of a question of what did I  
16:19:27 16 do, rather than what would I do.  
16:19:29 17  
16:19:30 18 Yes?---And I had direct conversations with the line of  
16:19:33 19 management over that source.  
16:19:35 20  
16:19:37 21 We're perhaps skipping ahead here now but at some point in  
16:19:42 22 time are you saying that it did become apparent to you that  
16:19:46 23 the use of this informer that we're talking about,  
16:19:51 24 Ms Gobbo, involved infringing upon other people's  
16:19:54 25 fundamental legal rights?---The risk of doing so?  
16:19:57 26  
16:19:58 27 Yes?---Yes.  
16:19:59 28  
16:19:59 29 We'll start with the risk of doing so but that became  
16:20:03 30 apparent to you?---Yes, because I knew that that particular  
16:20:06 31 source was a barrister.  
16:20:08 32  
16:20:10 33 What did you do when you became aware of that?---I can't  
16:20:15 34 recall specifically the conversations that I had, but I  
16:20:22 35 became aware of the risks relating to that particular  
16:20:25 36 source and I believe that I had conversations with the  
16:20:30 37 people involved. I can't recall those specific  
16:20:36 38 conversations.  
16:20:36 39  
16:20:37 40 Which people involved did you have conversations with?---So  
16:20:41 41 Officer Sandy White, then - my first introduction to the  
16:20:52 42 issue was through Inspector McWhirter, which led to a  
16:20:58 43 further conversation with Commander Moloney, and I also  
16:21:06 44 recall having conversations with Superintendent Biggin.  
16:21:11 45  
16:21:11 46 Can you place a time on these conversations?---Well the  
16:21:18 47 first - I think I refer in my statement to the first, the

16:21:22 1 first issue that I've recorded in my diary is relating to  
16:21:26 2 that particular source. I can't recall the specifics of  
16:21:32 3 the conversations.  
16:21:33 4  
16:21:34 5 We might - sorry?---But it was discussed.  
16:21:40 6  
16:21:41 7 What you say was discussed was what?---Mostly, my  
16:21:46 8 recollection of most of the discussions in relation to that  
16:21:49 9 source was the risk created by using her as a source and  
16:21:54 10 the focus of the risk was the risk to her personal safety.  
16:21:58 11  
16:22:00 12 Putting aside the risk to her personal safety, what other  
16:22:03 13 risks were discussed with those people?---I can't recall  
16:22:08 14 the specifics. As stated in my statement, I would expect  
16:22:12 15 that we discussed the fact that she was a barrister but I  
16:22:19 16 can't recall the specifics now.  
16:22:21 17  
16:22:25 18 Have a look at paragraph 29 of the policy there. "The  
16:22:34 19 Local Source Registrar is to create a local informer  
16:22:41 20 management file, including a copy of any handling  
16:22:45 21 instructions relevant and created specifically for the  
16:22:47 22 management of the informer." Do you see that?---Yes.  
16:22:54 23  
16:22:54 24 That's the last dash point there?---Yes.  
16:22:56 25  
16:22:56 26 That contemplates that some informers are going to require  
16:23:00 27 specific handling instructions, it's not a one size fits  
16:23:05 28 all scenario?---Yes.  
16:23:06 29  
16:23:07 30 There's reference there also to, if we - just right down  
16:23:13 31 the bottom, to, "The need to forward to the IMU the  
16:23:20 32 Acknowledgement of Responsibilities form", do you see  
16:23:23 33 that?---Yes.  
16:23:23 34  
16:23:25 35 That seems to indicate that the policy requires a written  
16:23:28 36 Acknowledgement of Responsibilities form?---Yes.  
16:23:31 37  
16:23:33 38 It appears in this case that there was no such form.  
16:23:39 39 You're aware of that?---I believe that is the case, yes.  
16:23:41 40  
16:23:42 41 How could that be the case with someone like Ms Gobbo?---I  
16:23:46 42 don't know.  
16:23:47 43  
16:23:55 44 That sort of form is something that clearly defines the  
16:23:58 45 parameters of a relationship between the handler and the  
16:24:01 46 informer, is that right?---Yes.  
16:24:03 47

16:24:03 1 And that is something that's needed for transparency and  
16:24:09 2 auditing purposes of the file, to make sure that  
16:24:11 3 relationship is not going beyond parameters?---It's  
16:24:17 4 required to make sure that the source understands the  
16:24:22 5 arrangement.  
16:24:22 6  
16:24:23 7 Yes. But also that the handler has an understanding as  
16:24:28 8 well. It would inform the handler as well, would it  
16:24:32 9 not?---The entire source management file does that.  
16:24:36 10  
16:24:37 11 What would you envisage would be some specific handling  
16:24:42 12 instructions that would have been appropriate for a lawyer  
16:24:44 13 who was informing?---That the information that the person  
16:24:55 14 was providing was not in conflict with the person's  
16:25:00 15 responsibilities as an officer of the court.  
16:25:02 16  
16:25:03 17 That was something obvious on the face of it?---Yes.  
16:25:06 18  
16:25:06 19 Was that something that you ever checked in relation to  
16:25:13 20 questioning of the controller or the handlers was going on  
16:25:17 21 in relation to their contact with Ms Gobbo?---I can't  
16:25:20 22 recall ever doing so but I expect that I did.  
16:25:22 23  
16:25:24 24 Would you have recorded that anywhere?---I can't find that  
16:25:27 25 I have unless it's on a file that hasn't been revealed to  
16:25:32 26 me in preparation for this Commission.  
16:25:34 27  
16:25:42 28 Paragraph 14 of that document also indicates that the Local  
16:25:48 29 Informer Registrar is responsible for the maintenance,  
16:25:51 30 management and auditing of the system, is that  
16:25:54 31 right?---That's correct.  
16:25:54 32  
16:25:57 33 Insofar as the time that you were there, can you recall  
16:26:03 34 auditing that file yourself?---Yes. So that function was  
16:26:07 35 actually performed for me by the Human Source Management  
16:26:12 36 Unit and then from time to time I would attend at the unit  
16:26:15 37 and actually audit the files.  
16:26:16 38  
16:26:17 39 So when you say it was performed for you, what did they  
16:26:20 40 do?---They maintained the file for me.  
16:26:23 41  
16:26:24 42 So that's the maintenance and management of it?---Yes.  
16:26:28 43  
16:26:28 44 But the auditing of it, to check that - - - ?---No, that  
16:26:32 45 was performed by me, and I think I've recorded in my diary  
16:26:35 46 at least once that I attended at the unit in order to look  
16:26:42 47 at the file.

16:26:43 1  
16:26:44 2 The audit would be to ensure compliance with the informer  
16:26:49 3 management policy. Is it the case that there was any audit  
16:26:52 4 of the appropriateness of the information that Ms Gobbo was  
16:26:54 5 providing? Any audit relating to the content of the  
16:26:59 6 information she was providing as opposed to the processes,  
16:27:03 7 the writing down of what the information was?---Not  
16:27:07 8 performed by me, no, because I wouldn't have had a context  
16:27:12 9 to actually do that with.  
16:27:14 10  
16:27:16 11 In terms of the registration - so when you say you don't  
16:27:20 12 have a context, what do you mean by that?---I wasn't aware  
16:27:23 13 of the content or the progress of the operations in the  
16:27:29 14 investigations that the information was relevant to.  
16:27:31 15  
16:27:33 16 You could do it with a general idea of those matters?---I'm  
16:27:41 17 sorry, I - - -  
16:27:42 18  
16:27:42 19 You would have had a general idea of the reason she had  
16:27:45 20 been registered and the type of information she was  
16:27:51 21 providing to the police and the value to the police?---I  
16:27:54 22 knew that the information that she was providing was  
16:27:57 23 relevant to the Purana Task Force.  
16:28:00 24  
16:28:01 25 In relation to major gangland activity?---That's correct.  
16:28:04 26  
16:28:07 27 We'll come to that in a moment. If I can have a look - if  
16:28:13 28 we can bring up please VPL.0100.0121.0155. This is an  
16:28:43 29 application form in relation to Ms Gobbo's registration or  
16:28:47 30 the registration form in relation to her, is that  
16:28:49 31 right?---Yes.  
16:28:50 32  
16:28:50 33 This is the form that was held on the HSMU system?---Yes.  
16:28:58 34  
16:29:00 35 Is it the case that Ian Thomas was the Superintendent or  
16:29:06 36 the - what position did he hold, something prior to  
16:29:11 37 you?---He was the previous Superintendent For the State  
16:29:14 38 Intelligence Division.  
16:29:14 39  
16:29:15 40 You took over his role?---Yes.  
16:29:16 41  
16:29:19 42 And then further down we have the officer-in-charge  
16:29:24 43 details?---Yes.  
16:29:24 44  
16:29:24 45 And that's Detective Inspector Calishaw?---Yes, at that  
16:29:29 46 time, yes.  
16:29:30 47



16:29:31 1 So his role was taken over by Mr McWhirter at some point in  
16:29:37 2 time, is that the case?---I assume so, yes.  
16:29:39 3  
16:29:42 4 That document indicates a registration date of 16 September  
16:29:47 5 2005, you may or may not be able to see that?---It was up  
16:29:51 6 the top, yes.  
16:29:52 7  
16:29:53 8 Is it the case that a registration can only occur with the  
16:29:57 9 receipt of a formal risk assessment?---Yes.  
16:30:06 10  
16:30:07 11 The first formal risk assessment seems to have not been  
16:30:11 12 completed until 15 November 2005. Is it the case that  
16:30:17 13 registrations may be backdated?---Well - - -  
16:30:30 14  
16:30:31 15 So this is - - - ?---So a registration might commence, if  
16:30:34 16 it was waiting for a risk assessment it would be completed  
16:30:39 17 upon receipt of the risk assessment so it could be spread  
16:30:42 18 out over a period of time.  
16:30:44 19  
16:30:45 20 The first formal risk assessment is completed two months  
16:30:49 21 after this but it seems as though her registration has been  
16:30:54 22 on foot for two months prior to the risk assessment?---It  
16:30:57 23 would appear so, yes.  
16:30:58 24  
16:31:00 25 Presumably a risk assessment is the opportunity for the  
16:31:04 26 officer-in-charge and the Local Informer Registrar to have  
16:31:09 27 some information before them about the risks associated  
16:31:13 28 with running this person?---Yes.  
16:31:15 29  
16:31:17 30 Was there any consideration given to the timing as between  
16:31:24 31 those events?---I couldn't say.  
16:31:29 32  
16:31:32 33 Assuming that Mr Calishaw and Mr Thomas complied with the  
16:31:37 34 Chief Commissioner's instruction and the policy that was in  
16:31:40 35 place, they would have made their own assessments of the  
16:31:44 36 risks applicable to Ms Gobbo's registration, you would  
16:31:48 37 think?---I would think, yes.  
16:31:50 38  
16:31:53 39 We've got some notes of Mr Calishaw's, if we can put those  
16:31:58 40 on the screen, please. VPL.0100 - - -  
16:32:02 41  
16:32:02 42 COMMISSIONER: Unless you particularly wanted to finish  
16:32:04 43 this tonight we might adjourn?  
16:32:07 44  
16:32:08 45 MS TITTENSOR: Certainly.  
16:32:08 46  
16:32:09 47 MR CHETTLE: Has this document we have just been looking at

16:32:12 1           been tendered, the application for registration.  
16:32:13 2  
16:32:14 3           COMMISSIONER: I'm not sure, it could well be.  
16:32:16 4  
16:32:16 5           MR HOLT: We can check, Commissioner, I think it has been.  
16:32:19 6  
16:32:20 7           MS TITTENSOR: I think it may well have made.  
16:32:26 8  
16:32:26 9           COMMISSIONER: 116 is the informer registration  
16:32:33 10          application.  
16:32:33 11  
16:32:33 12          MS TITTENSOR: We might check overnight that it's the same  
16:32:36 13          complete form because sometimes they were less than  
16:32:40 14          complete.  
16:32:42 15  
16:32:42 16          COMMISSIONER: All right, we can check overnight but it  
16:32:45 17          could be 116.  
16:32:46 18  
16:32:47 19          MS TITTENSOR: Thanks Commissioner.  
16:32:48 20  
16:32:48 21          COMMISSIONER: We'll adjourn until 9.30 tomorrow.  
22  
16:33:07 23          <(THE WITNESS WITHDREW)  
16:33:07 24  
16:33:07 25          ADJOURNED UNTIL THURSDAY 19 SEPTEMBER 2019  
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