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These claims are not yet resolved.

09:42:00 1 COMMISSIONER: Yes, the appearances are largely as they
09:42:04 2 were yesterday, save that we have Mr McAteer for the State
09:42:09 3 and Ms Emily Sheales for the time being and later
09:42:14 4 Ms Haban-Beer for the CDPP. It's very warm in here, it's a
09:42:19 5 hot day, so if anyone, including counsel, wish to take
09:42:23 6 their jackets off, and the witness, you're most welcome.

09:42:39 7
09:42:40 8 MR WINNEKE: Commissioner, last evening I received a call
09:42:46 9 from [REDACTED]

09:42:53 10 [REDACTED]
09:42:56 11 [REDACTED]
09:43:02 12 [REDACTED]
09:43:09 13 [REDACTED]
09:43:13 14 [REDACTED]
09:43:17 15 [REDACTED]
09:43:22 16 [REDACTED]
09:43:26 17 [REDACTED]
09:43:33 18 [REDACTED]
09:43:37 19 [REDACTED]
09:43:40 20 [REDACTED]
09:43:45 21 [REDACTED]
09:43:46 22 [REDACTED]

09:43:47 23 COMMISSIONER: Yes. In terms of reputational damage I can
09:43:51 24 see the sense in that and it's consistent with what we've
09:43:55 25 been doing in respect of other peripheral witnesses like
09:43:59 26 that. Do you have the reference in the transcript?

09:44:03 27
09:44:03 28 MR WINNEKE: No, I don't, Commissioner, but I'll endeavour
09:44:06 29 to find it.

09:44:08 30
09:44:08 31 COMMISSIONER: Yes. Does anybody want to speak against the
09:44:13 32 application? No. All right, as soon as we find that
09:44:20 33 transcript reference I'm prepared under the *Inquiries Act*
09:44:23 34 to direct there be no publication of that particular
09:44:26 35 allegation until further order.

09:44:28 36
09:44:28 37 MR WINNEKE: Thanks Commissioner.

09:44:30 38
09:44:30 39 COMMISSIONER: If someone, counsel in the legal team
09:44:33 40 assisting could find that and let me know, I'll be more
09:44:39 41 specific as to the order.

09:44:43 42
09:44:43 43 MR WINNEKE: Thanks Commissioner.

09:44:48 44
09:44:48 45 COMMISSIONER: Yes, are you ready for the witness to return
09:44:50 46 to the witness box?

09:44:51 47

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09:44:52 1 MR WINNEKE: Yes, Commissioner.
09:44:52 2
09:44:53 3 COMMISSIONER: Thanks Mr Bateson.
09:44:54 4
09:44:55 5 <STUART BATESON, recalled:
09:44:57 6
09:44:58 7 MR WINNEKE: Mr Bateson, just on that issue I was just
09:45:02 8 dealing with, you made the assertion that I've just
09:45:08 9 referred to the Commissioner and it was your understanding
09:45:12 10 that [REDACTED]
09:45:19 11 [REDACTED]
09:45:23 12 [REDACTED]
09:45:25 13 [REDACTED]
09:45:25 14 [REDACTED]
09:45:29 15 [REDACTED]
09:45:32 16 [REDACTED]
09:45:37 17 [REDACTED]
09:45:40 18 [REDACTED]
09:45:43 19 [REDACTED]
09:45:46 20 [REDACTED]
09:45:49 21 [REDACTED]
09:45:49 22 [REDACTED]
09:45:53 23 [REDACTED]
09:45:56 24 [REDACTED]
09:45:56 25 [REDACTED]
09:45:56 26 [REDACTED]
09:45:58 27 [REDACTED]
09:45:58 28 [REDACTED]
09:45:59 29 [REDACTED]
09:46:03 30 [REDACTED]
09:46:07 31 [REDACTED]
09:46:09 32 [REDACTED]
09:46:09 33 [REDACTED]
09:46:13 34 [REDACTED]
09:46:17 35 [REDACTED]
09:46:21 36 [REDACTED]
09:46:24 37 [REDACTED]
09:46:29 38 [REDACTED]
09:46:35 39 [REDACTED]
09:46:39 40 [REDACTED]
09:46:39 41 [REDACTED]
09:46:39 42 [REDACTED]
09:46:42 43 [REDACTED]
09:46:45 44 [REDACTED]
09:46:46 45 [REDACTED]
09:46:54 46 [REDACTED]
09:46:58 47 [REDACTED]

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BATESON XXN - IN CAMERA

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09:55:07 41
09:55:13 42
09:55:22 43
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MR WINNEKE: Thanks Commissioner. Mr Bateson, I just, before I move back I was going to put to you a discussion that you had with [REDACTED] on 15 March of 2006. Before I do I just want to raise another couple of matters about the

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09:55:46 1 final statement taking process with respect to [REDACTED] on
09:55:54 2 13 July 2004 for the sake of completeness. We understand
09:56:03 3 that Mr Hatt was the person who went to see Ms Gobbo on the
09:56:12 4 10th of July 2004 for the purposes of her reviewing the
09:56:19 5 statements. That's your understanding, isn't it?---Yes.

09:56:22 6
09:56:24 7 And Mr Hatt produced some notes, or at least he made some
09:56:31 8 notes both in his diary and in his day book which were, as
09:56:35 9 I understand it, provided to you and then provided to the
09:56:40 10 defence and to the court for the purposes that we discussed
09:56:44 11 yesterday of disclosing the relevant events which occurred
09:56:47 12 prior to the statements being taken, do you accept
09:56:50 13 that?---Yes.

09:56:51 14
09:56:52 15 If we can have a look at this - - - ?---He may well have
09:56:55 16 helped me put those notes together.

09:56:57 17
09:56:57 18 Yes, all right. If we have a look at VPL.0005.0114.0030.
09:57:09 19 That's a, what we have, has been provided to us, a redacted
09:57:15 20 entry from Mr Hatt's diaries and that indicates, if we can
09:57:20 21 get that up, in the meantime if I can indicate to you that
09:57:24 22 it says on Saturday, 10 July 2004 at 14:00 you attended at
09:57:35 23 William Street chambers and met with barrister Nicola Gobbo
09:57:39 24 re her client's statement and he appears to have been
09:57:43 25 there, it seems, until 15:20, so for about an hour and 20
09:57:48 26 minutes or thereabouts. Do you see that there?---Yes.

09:57:50 27
09:57:51 28 That would be consistent, I suppose, with the events that
09:57:57 29 you describe in your diary?---Yes.

09:58:02 30
09:58:09 31 You may or may not have seen that diary entry before. One
09:58:14 32 assumes that you might have been provided that if you were
09:58:19 33 compiling the notes to provide to the court and the
09:58:24 34 parties?---Look I may have. We did work as a team so it
09:58:27 35 may well have been that, although I might have been
09:58:31 36 responsible and I am responsible for the final production,
09:58:34 37 we might have put that together as a team.

09:58:36 38
09:58:37 39 All right?---Because there was hundreds and hundreds of
09:58:39 40 pages.

09:58:39 41
09:58:39 42 Yes, I follow. By the way, have you had a chance to go
09:58:43 43 through the depositions that we tendered yesterday?---No.

09:58:47 44
09:58:47 45 I understand you haven't?---No.

09:58:48 46
09:58:51 47 And by all means do so when you get a chance, even if

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09:58:55 1 you've left the witness box because you may find something
09:58:59 2 that is of assistance to us?---Yes.
09:59:01 3
09:59:01 4 Can I ask you to have a look at this document,
09:59:06 5 VPL.0005.0114.0034.
09:59:13 6
09:59:13 7 COMMISSIONER: Did you say you wanted to tender that diary
09:59:19 8 note?
09:59:21 9
09:59:22 10 MR WINNEKE: Yes, I'll tender that, Commissioner. The next
09:59:33 11 one is a day book entries.
09:59:35 12
09:59:36 13 #EXHIBIT RC776A - (Confidential) Hatt's diary note of
09:59:28 14 10/7/04.
09:59:37 15
09:59:37 16 #EXHIBIT RC776B - (Redacted version.)
09:59:52 17
09:59:53 18 It's obviously redacted and shaded, but the redacted parts
10:00:00 19 one assumes are irrelevant and the shaded parts are
10:00:03 20 relevant. At 14:00, consistent with his diary, he goes to,
10:00:07 21 it looks like a room on the 10th floor of 172 William
10:00:12 22 Street. IMC. What's that stand for?---It's just a code
10:00:19 23 for the city.
10:00:20 24
10:00:20 25 Is that right, sorry. "Re meeting Nicola Gobbo barrister
10:00:25 26 for [REDACTED]?---Yep.
10:00:26 27
10:00:26 28 "Copies made of statements perused by Gobbo. Gobbo
10:00:32 29 questions number of issues, including", so this seems to be
10:00:36 30 an inclusive thing, "Paragraph included regarding
10:00:40 31 [REDACTED]" and that's with respect to the [REDACTED]
10:00:45 32 murder it seems?---Yes.
10:00:45 33
10:00:46 34 "Advised police will liaise with the OPP", and indeed I
10:00:51 35 think you did liaise subsequently with Mr Horgan about
10:00:54 36 that, is that right?---Yes.
10:00:55 37
10:00:56 38 "Last paragraph doesn't make sense as there is previous
10:00:58 39 mention of being paid \$[REDACTED]" and that's [REDACTED]
10:01:07 40 also and, "Gobbo is going to canvass that with [REDACTED]".
10:01:13 41 Are you alive to those issues, about the \$[REDACTED] previously
10:01:18 42 being - - - ?---I don't remember the \$[REDACTED]. I don't
10:01:25 43 understand the reference to that, I'd have to explore it.
10:01:28 44
10:01:28 45 Yes, all right?---And I don't, I don't, as I sit here now,
10:01:32 46 remember that reference.
10:01:33 47

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10:01:33 1 All right?---It may well have been - did he say something
10:01:36 2 like that in the 464B? Sorry, I shouldn't ask you.
10:01:43 3
10:01:43 4 There's a lot of information, Mr Bateson. I suspect there
10:01:46 5 are a lot of things said but one assumes that we can look
10:01:50 6 at the statement, and we'll do that, and see whether the
10:01:55 7 statement, the [REDACTED] statement makes reference to
10:02:00 8 \$[REDACTED] being paid. You don't know?---That's not the way
10:02:04 9 I'm reading it. But maybe. I'll wait until we see a
10:02:09 10 statement I guess.
10:02:10 11
10:02:10 12 Yes?---I was reading it doesn't make sense as there is, as
10:02:16 13 there is - - -
10:02:16 14
10:02:16 15 Previous mention of being paid [REDACTED]. In any event there
10:02:20 16 seems to be an inconsistency she's pointing out in the
10:02:24 17 statement?---Yes.
10:02:25 18
10:02:26 19 Then the next one obviously relates to the murder of
10:02:29 20 [REDACTED]. "Knowledge it was a murder, again Gobbo is
10:02:35 21 going to canvass that with [REDACTED]"?---Yep.
10:02:38 22
10:02:39 23 And then you were updated and as was Gavan Ryan?---Yes.
10:02:44 24
10:02:45 25 And that seems to be the thrust of that note. Now it does
10:02:50 26 appear to be the case that she was provided with copies of
10:02:54 27 the statement. So that's consistent with hard copies of
10:02:59 28 the statement being given to Ms Gobbo?---I'm not sure
10:03:03 29 given, but letting her - - -
10:03:04 30
10:03:04 31 Letting her have them?---Yep.
10:03:06 32
10:03:06 33 And obviously we've had the evidence, certainly as far as
10:03:11 34 Ms Gobbo is concerned, of the statements that she's made to
10:03:14 35 her handlers about her making additions, whichever way you
10:03:18 36 want to call it, she says alterations, edits, what have
10:03:23 37 you, but it may well suggest that she has actually made
10:03:27 38 markings on or sticky notes or what have you, on those
10:03:32 39 statements that she had been provided with and then
10:03:35 40 returned to Mr Hatt. Now, do you have a recollection of
10:03:39 41 that or not?---No, and I don't think I'm willing to accept
10:03:43 42 that assertion.
10:03:44 43
10:03:44 44 So what you don't accept is the assertions that Ms Gobbo
10:03:48 45 has made to the handlers on a number of occasions
10:03:51 46 repeatedly?---No, what I think you're putting to me, that
10:03:55 47 she made alterations to the statements on the hard copies

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10:03:58 1 and I'm not prepared to accept that. She's had
10:04:03 2 conversation here with Mark and provided some feedback.
10:04:06 3
10:04:07 4 Yes?---I don't know that we can draw the fact that she made
10:04:11 5 alterations to the copies which she read.
10:04:14 6
10:04:14 7 When I say alterations, I mean I don't know whether you're
10:04:18 8 talking about markings - you're talking about markings,
10:04:25 9 actually handwritten markings on the statements itself or
10:04:30 10 suggestions or whatever it might be. You say, "Well look,
10:04:34 11 I don't recall that being the case"?---Yes.
10:04:36 12
10:04:40 13 What about Post-It Notes with markings in that sort of
10:04:46 14 way?---I've seen the Post-it Note from Mr Buick's diary.
10:04:50 15
10:04:50 16 Yes?---So it's clear or it indicates that note that she
10:04:56 17 made some alterations in red pen, I think there's an
10:05:01 18 indicative there for [REDACTED]
10:05:03 19
10:05:03 20 Yes?---But I'm not sure - and I actually do have a
10:05:06 21 recollection of that.
10:05:07 22
10:05:07 23 You do?---She was providing some grammatical advice and
10:05:11 24 different things but I don't have that memory of a red pen
10:05:16 25 here because I do remember with [REDACTED] it was, felt like
10:05:20 26 a bit of a school teacher thing to do.
10:05:23 27
10:05:24 28 Yeah, all right. So she was correcting grammatical errors
10:05:27 29 you think in the case of [REDACTED]?---That kind of thing.
10:05:30 30 I don't have any recollection of anything material being
10:05:33 31 written on them.
10:05:35 32
10:05:38 33 Just on that, those grammatical errors, the school
10:05:43 34 teacher-ish ones, did you keep those so as we could look at
10:05:47 35 those or anyone could look at those subsequently and see
10:05:50 36 what they were?---Thinking back now and looking at that
10:05:54 37 Post-it Note that was in Boris's diary, it appears that I
10:05:59 38 gave that copy to whoever was taking the statement. Now,
10:06:03 39 you know, there's a couple of those statements that I took
10:06:06 40 firstly, and as I said yesterday, once they become
10:06:10 41 redundant they're either signed in that form, but if
10:06:15 42 they're redundant then I would only keep the copy which is
10:06:21 43 signed.
10:06:21 44
10:06:21 45 Yes, okay. All right then. I'll tender that Commissioner
10:06:27 46 as well.
10:06:28 47

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1
10:06:31 2 #EXHIBIT RC777A - (Confidential) Hatt's day book note
10:06:36 3 10/7/06.
10:06:40 4
10:06:40 5 #EXHIBIT RC777B - (Redacted version.)
10:06:43 6
10:06:44 7 Just before we move on, what appears to have occurred is
10:06:49 8 that the statement that [REDACTED] saw on the 9th of July,
10:07:02 9 and which was then altered on 9 July by the addition of
10:07:06 10 either the last two sentences or the last two lines of
10:07:11 11 paragraph 51?---52.
10:07:14 12
10:07:15 13 52, I'm sorry?---That's when he altered them?
10:07:19 14
10:07:19 15 He altered them?---Asked us to add them.
10:07:25 16
10:07:29 17 That statement then was, that statement was then taken
10:07:40 18 subsequently to Ms Gobbo, correct, on the 10th by
10:07:53 19 Mr Hatt?---Correct.
10:07:54 20
10:07:56 21 And it seems that that statement was altered again
10:08:04 22 subsequent to speaking to Ms Gobbo, you accept that?---Well
10:08:09 23 when we went back down to see him to get the statement, to
10:08:17 24 get it signed, I've made a note here, "Attend [REDACTED]
10:08:22 25 Prison with Detective Hatt. Some changes made to
10:08:28 26 [REDACTED]'s statement re his belief".
27
10:08:30 28 Right?---And I think I made notes a slight change. "Only
10:08:30 29 changes to [REDACTED]'s statement was the [REDACTED] part info at
10:08:34 30 the start."
10:08:35 31
10:08:35 32 Yes. What happens is you've gone back, he having made the
10:08:40 33 statement changes, I don't want to go over old ground too
10:08:46 34 much, but he having made the changes with you, that
10:08:50 35 statement then is changed again, or changed further with
10:08:53 36 the addition, further additions made to it, do you
10:08:57 37 follow?---Yeah, so we put in the [REDACTED] paragraph at the
10:09:00 38 start.
10:09:00 39
10:09:00 40 That's in relation to [REDACTED] and [REDACTED]?---[REDACTED].
10:09:04 41
10:09:05 42 What I'm focusing on is the belief as to the
10:09:08 43 murder?---Yeah.
10:09:09 44
10:09:09 45 Right. So are you able to say, if you are to be provided
10:09:13 46 with the statement that was ultimately signed and tendered
10:09:17 47 at the committal, would you be able to say to the

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10:09:19 1 Commission which paragraphs in that statement were altered
10:09:25 2 between the 10th and, or the 9th and the 12th?---I'm happy
10:09:32 3 to give it a go, it's now 13 years down the track.
10:09:37 4
10:09:37 5 Is the answer it would be very difficult?---No, I don't
10:09:40 6 know that. I'm happy, if you - - -
10:09:44 7
10:09:44 8 Have you seen that statement?---I haven't looked at it in
10:09:46 9 preparation for my evidence today.
10:09:48 10
10:09:49 11 Right. If we can put up, Commissioner, we've got a copy of
10:09:57 12 the statement and it's an OPP exhibit, OPP, and I think
10:10:06 13 I've provided the number to Mr Skim. It's a 618-odd page,
10:10:13 14 or 608 page document, it's part of the evidence of [REDACTED]
10:10:19 15 [REDACTED] at the committal proceeding. Whilst we're waiting for
10:10:29 16 that, can I ask you this: why was that entry redacted out
10:10:38 17 of your diary, the change in the statement as to his
10:10:45 18 belief?---It was, was it?
10:10:47 19
10:10:47 20 It was, yes?---I don't know, I can't answer that. I don't
10:10:51 21 know what I was thinking at that time.
10:10:58 22
10:11:06 23 Have you got your day book there?---Day book?
10:11:09 24
10:11:09 25 Yes?---I have. I'll just have to leave the witness box for
10:11:14 26 a second.
10:11:20 27
10:11:20 28 The deposition number is 1019. You might not find it in
10:11:35 29 that document. If you don't it will be in the other one,
10:11:39 30 1019?---Am I meant to read the transcript?
10:11:44 31
10:11:44 32 No, don't worry about that for the moment. If you have a
10:11:46 33 look at your day book on the 12th at 10 o'clock it says
10:11:53 34 that [REDACTED] enters the room. This is at - - -
10:12:18 35
10:12:18 36 COMMISSIONER: Which date is it in the day book he's
10:12:21 37 looking at?
10:12:22 38
10:12:22 39 MR WINNEKE: This is 12 July, Commissioner, 2004.
10:12:25 40
10:12:25 41 COMMISSIONER: Thank you.
10:12:26 42
10:12:27 43 MR WINNEKE: In fact we can put it up. It's 2290 in the
10:12:29 44 depositions. 2290, so that number at the bottom right.
10:13:02 45 There it is there?---Yeah, I'm not sure why but that's one
10:13:19 46 of the entries that I declared to the magistrate.
10:13:21 47

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10:13:21 1 It is, I accept that. I accept it?---So I don't know why,
10:13:25 2 but when I was being, when I went into the closed hearing
10:13:29 3 with the magistrate I did point that one out to him.
10:13:33 4
10:13:33 5 You can say that comfortably because you've got that page
10:13:40 6 available to you in the depositions and it's crossed
10:13:45 7 out?---I'm more comfortable with it because I know that
10:13:48 8 Mr Lovitt asked me about it.
10:13:50 9
10:13:50 10 He did, yes?---In cross-examination.
10:13:52 11
10:13:52 12 But what he didn't know was what was underneath it and that
10:13:57 13 is where it says, "Some changes made to [REDACTED]'s
10:14:03 14 statement re his belief". It says that, "After [REDACTED] enters
10:14:10 15 room, some changes made to [REDACTED]'s statement regarding
10:14:14 16 his belief". That's crossed out and you say, "Look, I
10:14:17 17 don't know why that's crossed out", you accept it shouldn't
10:14:20 18 have been crossed out, but in any event it would seem that
10:14:23 19 the magistrate must have been aware of it and Mr Silbert
10:14:26 20 was probably aware of it because he was involved in
10:14:29 21 representing you before Mr Grey, do you think?---Wasn't
10:14:34 22 this the one that came back in, one of the two things that
10:14:37 23 came back in?
10:14:39 24
10:14:39 25 Was that one of the two things that came back in?---Yeah.
10:14:42 26
10:14:42 27 I don't think so, I don't know. You're the witness, I
10:14:45 28 don't know?---I thought it was one of the things that
10:14:48 29 Mr Lovitt said, "Why was this excluded in the first place?"
30
10:14:52 31 No?---That's not one of them?
10:14:53 32
10:14:54 33 No. That document was asked questions about, there wasn't
10:15:02 34 any questioning about what was written underneath it and
10:15:04 35 the questioning really was along the lines of - I went
10:15:10 36 through it with you yesterday - - - ?---I accept that, I
10:15:16 37 don't need to go through it again if you went through it
10:15:19 38 yesterday. But as I sit here now I thought that was one of
10:15:23 39 the ones that the magistrate ruled back in.
10:15:27 40
10:15:27 41 There's no suggestion of that unless that's a recollection
10:15:30 42 that you have?---I thought it was. As you say, you sit
10:15:35 43 here and you go, "Oh, that should be back in".
10:15:35 44
10:15:35 45 If you go to p.848 of the transcript he's asking you about
10:15:40 46 it. At the bottom of the page, "So we've done 9 July?
10:15:54 47 Yes. Then 12 July, what happened then? On 12 July we

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10:15:59 1 went, just let me look over this page, we went to the
10:16:02 2 prison. Do you see [REDACTED] Yep. Have a look at the
10:16:11 3 statements. We then went to [REDACTED] to print them off.
10:16:15 4 Got him to read them and once again he wanted to talk to
10:16:18 5 his lawyer before he signed them and that's why we came
10:16:21 6 back on the 13th for the video recorded read-back". If we
10:16:26 7 then go over to the next page of the depositions that was
10:16:31 8 presented to the barristers, 2291, you'll see the "returns
10:16:35 9 to the prison", do you see that?---Yes.
10:16:38 10
11 "Reads the statement"?---Yes.
12
10:16:38 13 So the point that I was making to you yesterday was that
10:16:40 14 nothing that occurred between the 9th and you coming back,
10:16:45 15 including changes being made to the statement, the
10:16:48 16 statement being taken to Ms Gobbo, appeared to be
10:16:52 17 cross-examined about or known about, do you follow what I'm
10:16:55 18 saying?---I do, yeah.
10:16:57 19
10:16:57 20 All right. You would agree that that is most
10:17:03 21 unfortunate?---"Some changes made to his belief." Yeah, I
10:17:12 22 could see the agency in Mr Lovitt having that. I thought
10:17:17 23 he actually went back later in the cross-examination, I'm
10:17:20 24 looking for some assistance here, but anyway we can check
10:17:23 25 that in the break.
10:17:24 26
10:17:24 27 No doubt we can look at the transcript and we can all work
10:17:27 28 it out?---Yeah.
10:17:28 29
10:17:30 30 One of the significant issues, I suggest to you, about all
10:17:33 31 this was what indeed [REDACTED] was really saying about what
10:17:41 32 he knew about the murder and what was going to take place
10:17:47 33 because subsequently you're aware Mr Lovitt was
10:17:51 34 cross-examining [REDACTED] about the basis upon which he'd
10:17:56 35 pleaded guilty to murder, do you follow that?---Yes.
10:17:58 36
10:17:58 37 You're aware of that?---Yep.
10:17:59 38
10:18:02 39 And it was suggested to him by Mr Lovitt that he'd pleaded
10:18:09 40 guilty to the murder on the basis that he didn't know that
10:18:13 41 there was going to be a murder, and in fact he really was
10:18:18 42 put under pressure by [REDACTED] because a gun was presented
10:18:23 43 to him. There was almost a suggestion that he was forced
10:18:27 44 into doing it?---I thought he said he knew it was going to
10:18:30 45 be a murder on the day.
10:18:31 46
10:18:31 47 Yes?---And I'd have to review the statement.

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10:18:34 1
10:18:35 2 If we can go to p.583 of the transcript. Let's have a look
10:18:42 3 at it. And I think what you'll see there is that Mr Lovitt
10:18:53 4 is cross-examining [REDACTED] and - - - ?---I don't have
10:18:58 5 that.
10:18:59 6
10:18:59 7 It's a different exhibit. Perhaps go to the previous page,
10:19:22 8 the immediately preceding page. "The last thing I want to
10:19:25 9 ask you about is what happened when you were sentenced.
10:19:28 10 The Crown asked for you to be dealt with all on the one
10:19:31 11 day, in other words His Honour Mr Justice Teague heard the
10:19:34 12 plea and then later that same day on [REDACTED] he imposed
10:19:38 13 the sentence, right, and that's when you got [REDACTED] with [REDACTED] and
10:19:43 14 he told you were it not for your cooperation you would have
10:19:46 15 got a minimum of twice that much with another [REDACTED] years on
10:19:49 16 the bottom. And of course you know jolly well, don't you,
10:19:53 17 that given your admissions concerning the [REDACTED]
10:19:56 18 killing, indeed your admissions such as they are in
10:19:59 19 relation to the [REDACTED] killing, that if you were dealt
10:20:04 20 with for [REDACTED] execution type murders you could expect to go
10:20:05 21 to gaol for a lot longer than just a minimum of [REDACTED] years,
10:20:09 22 probably [REDACTED] years if not longer, maybe you'd never get out,
10:20:13 23 don't you?" And he says yes. The stakes are pretty high,
10:20:18 24 obviously. When the plea took place [REDACTED], who was
10:20:22 25 the barrister, made the plea and he said something things
10:20:25 26 to the judge that I just want to raise with you to see if
10:20:30 27 they accord with what your instructions were. He has
10:20:32 28 obviously got a transcript of the plea and he quotes, "It
10:20:36 29 was clearly suggested to [REDACTED] that no more than an underworld
10:20:40 30 debt collection was planned and, secondly, that [REDACTED] agreed
10:20:43 31 that at that late stage when there hadn't been the previous
10:20:46 32 arrangement, at that late stage to [REDACTED] to the vicinity
10:20:50 33 of [REDACTED]'s residence in the [REDACTED], right? Yes". So he
10:20:55 34 agrees with that. "I believe, did you tell Mr Langslow
10:20:58 35 those things? Yes, I believe so. The [REDACTED] was your car,
10:21:03 36 had false plates", he disagrees with that. "Did you tell
10:21:12 37 [REDACTED] that you believed there was going to be nothing
10:21:16 38 more take place than the collection of a debt, right? Yes.
10:21:20 39 That you were recruited at a late stage to drive to the
10:21:23 40 spot where this was to occur? Yes. [REDACTED] went on.
10:21:28 41 What is put is that not only does [REDACTED] say that at the time he
10:21:31 42 didn't think that [REDACTED] was going to be murdered but
10:21:33 43 that he thought it was another purpose, that is to collect
10:21:35 44 some money that was owed, that's what you told [REDACTED],
10:21:39 45 is that right? Yes. So you had no idea that there was
10:21:43 46 going to be a shooting? No. Well", and there's an
10:21:46 47 interruption. "No, I didn't know it was going to be a

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10:21:50 1 murder up until the day." So that's the point that you
10:21:52 2 were making?---That's the addition of the, that we noted,
10:21:58 3 on the last two paragraphs or last two lines or sentences
10:22:04 4 in paragraph 52.
10:22:05 5
10:22:06 6 Mr Lovitt says, "A shooting?" He says, "A shooting can
10:22:11 7 also mean possible maiming or shooting around in the
10:22:13 8 general area. What you were doing was telling your
10:22:15 9 barrister a pack of lies, weren't you? No, I wasn't.
10:22:18 10 Because you pleaded guilty to murder, didn't you? Yes.
11 Which that you must have known that within the framework of
10:22:22 12 the arrangement that you two had, you and [REDACTED] on your
10:22:26 13 account, either there was going to be a shooting where
10:22:29 14 someone was seriously injured or that there was at least a
15 possibility?" He said, "I'm not too sure what the exact
10:22:35 16 discussions between [REDACTED] and myself were, it was
10:22:36 17 roughly something along those lines. And [REDACTED] went
10:22:40 18 on, '[REDACTED] picked [REDACTED] up in [REDACTED] at about 5.20 on [REDACTED]
10:22:46 19 [REDACTED] and he says that [REDACTED] was armed and that at about 5.26
10:22:50 20 presented a firearm to [REDACTED] in the car causing him to infer,
10:22:54 21 because of what [REDACTED] did with it, that what was intended was a
10:22:57 22 murder after all, as well as by the implied threat which
10:23:01 23 could be heard on the device, that's a listening device,
10:23:04 24 the implied threat placing him, that is [REDACTED] under pressure
10:23:08 25 to continue' and that's what [REDACTED] said to the judge
10:23:10 26 when you were having your plea and sentence done for the
10:23:13 27 charge of murder of [REDACTED], right?" And he says yes.
10:23:18 28 "And was that true, what he said? Yes, it was."
10:23:22 29 Effectively he was agreeing to the proposition that a gun
10:23:25 30 had been put in front of him which was by way of an
10:23:29 31 implication or by way of threat to get him to continue to
10:23:32 32 do what he was going to do, that is to [REDACTED]. That
10:23:36 33 seems to be what was being put to him and he agreed with
10:23:38 34 that. Do you accept that?---I accept that that's on the
10:23:42 35 transcript, yeah.
10:23:42 36
10:23:43 37 "It was based on your instructions to him, is that right?
10:23:46 38 Yes. In other words, that [REDACTED] points a gun at you and you
10:23:52 39 think to yourself, 'Gee, this is a bit more than just a
10:23:55 40 debt collection, this is going to be a killing'? Yeah,
10:23:59 41 well also the fact that he had two guns". Then it goes on,
10:24:02 42 "Well it's not said anywhere. What he said was presented a
10:24:04 43 firearm to you in the car causing you to infer because of
10:24:06 44 what he did, another one tucked in his pocket, whatever,
10:24:09 45 what was intended was a murder after all, is that what you
10:24:12 46 told the barrister? I'm sure I told him many things, what
10:24:16 47 he actually said on the day. And you also told him there

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10:24:21 1 was an implied threat placed on you that one can hear on
10:24:24 2 the tape causing you to feel under pressure to continue, is
10:24:25 3 that right?" He says, "I'm not sure. And that's the tape
10:24:29 4 that had been played later on, a direction as to, you know,
10:24:34 5 'Get down, get down', obviously you seem to be running the
10:24:38 6 show, don't you? Obviously I'm playing along with it. But
10:24:43 7 the story that [REDACTED] is telling the sentencing judge
10:24:46 8 based on what you told him was complete and utter nonsense,
10:24:50 9 wasn't it? No, it wasn't. It's the way that you
10 10 manipulate events in order to try and get the best results
10:24:56 11 for you, [REDACTED] and to hell with everybody else, that's
10:24:57 12 the situation, isn't it? No it's not". So it seems that
10:25:09 13 what he was putting on his plea, and ultimately that plea
10:25:16 14 was accepted as I understand it, was a version of events
10:25:21 15 which really had him being placed under a fair degree of
10:25:25 16 pressure and not knowing about what was going to take
10:25:28 17 place, is that your understanding?---I think he, when we
10:25:31 18 look at the statement, he says he knows it's going to be a
10:25:34 19 murder on the day and then he thinks he's just best just to
10:25:38 20 control the situation so no one else gets hurt or something
10:25:42 21 like that.

10:25:43 22
10:25:43 23 Yes, that's ultimately what goes into his
10:25:46 24 statement?---Yeah. But he also says on the 464B I think
10:25:50 25 around the gun getting pointed at him by [REDACTED]

10:26:00 26
10:26:00 27 The point I'm making is this, it's quite clear that [REDACTED]
10:26:07 28 [REDACTED] is needing quite a bit of pressure, if you like, to get
10:26:12 29 him to a situation where he's going to make it clear that
10:26:17 30 he was aware of what was going to take place on the day,
10:26:20 31 that it was going to be a killing?---Look, I agree and I
10:26:25 32 think Justice Teague says this in his sentencing that he
10:26:28 33 was putting a spin on his own involvement.

10:26:31 34
10:26:33 35 Did he say that?---Yeah, I think Justice Teague says, "I
10:26:37 36 have to take into account that your version of events
10:26:42 37 includes a certain amount of spin" and you'll come to know
10:26:48 38 that defence barristers have a way of dealing with that.

10:26:52 39
10:26:52 40 Yes. He does, "As to the facts of what occurred I have
10:26:56 41 your version. As to some matters I must allow for your
10:26:59 42 spin, that is the presentation of some matters in a way
10:27:03 43 calculated to provide a more favourable impression of your
10:27:04 44 role. The accuracy of some aspects of what you've said may
10:27:07 45 later be challenged. Defence counsel have their ways of
10:27:13 46 dealing with spin as you will have further occasion to
10:27:14 47 learn". Now, what - that's what Justice Teague said in

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10:27:20 1 sentencing him?---Yes.

10:27:21 2
10:27:24 3 But what is important for defence barristers in order to
10:27:32 4 deal with that spin - effectively it was being suggested,
10:27:35 5 in an oblique way by the judge, "You're giving me a bit of
10:27:39 6 a story, but ultimately all is going to come out in the
10:27:44 7 wash when you get into the witness box and defence
10:27:47 8 barristers start cross-examining you", do you accept
10:27:50 9 that?---Yep.

10:27:51 10
10:27:51 11 For that to occur properly and for the person who is being
10:27:55 12 charged on the basis of that person's statement, or that
10:27:57 13 person's evidence, it's only fair that defence be provided
10:28:01 14 with all of the relevant information?---Yeah, I thought
10:28:04 15 they had.

10:28:04 16
10:28:05 17 Well - you accept that, don't you?---I accept that's a fair
10:28:11 18 point, yes.

10:28:11 19
10:28:12 20 If the situation is Ms Gobbo's involvement is being
10:28:15 21 filleted out of this and defence counsel are not getting
10:28:20 22 the full picture, that is a most unfortunate circumstance
10:28:23 23 for the presentation and for the person who's trying to get
10:28:30 24 to the truth, to get through the spin, do you follow what
10:28:33 25 I'm saying?---Look, I think it's a balancing act between -
10:28:36 26 - -

10:28:36 27
10:28:37 28 What's it between?---It's between protecting someone's
10:28:41 29 safety. I truly believe if Carl Williams and Tony Mokbel
10:28:46 30 and others knew that she'd assisted or advised [REDACTED]
10:28:52 31 through this process, then she would have been either
10:28:56 32 seriously hurt or killed. Now we've got to balance that
10:29:01 33 fact that she was involved against the needs of what you've
10:29:05 34 just put to me.

10:29:06 35
10:29:06 36 Yes?---Now, her involvement, as I've said, in my view was
10:29:14 37 never particularly all that great or important. So from my
10:29:17 38 point of view I thought that balance fell very much in the
10:29:21 39 favour of protecting her.

10:29:24 40
10:29:24 41 Yes. Now obviously, and the point that I've been making is
10:29:29 42 that may well be a position that you're entitled to take so
10:29:33 43 long as the judge making the decision has all of the facts
10:29:36 44 available to him, do you accept that?---He's obviously -
10:29:42 45 sorry, he is the ultimate arbitrator of that, yeah.

10:29:45 46
10:29:46 47 You accept that if the magistrate, in this case the Chief

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10:29:51 1 Magistrate, has to make a decision about what goes in and
10:29:54 2 what goes out, he's got to rely very heavily, and indeed so
10:30:00 3 do the Crown, on what the investigators say occurs and one
10:30:05 4 would hope that all information would be provided to enable
10:30:12 5 the magistrate to make a decision, that balancing
10:30:16 6 decision?---Yes.
10:30:17 7
10:30:20 8 Obviously that includes providing all relevant notes and
10:30:24 9 statements and diaries?---Yes.
10:30:26 10
10:30:29 11 That would obviously include providing Mark Hatt's diaries
10:30:35 12 and day books as we've seen to enable that decision to be
10:30:39 13 made?---I would have thought so, yes.
10:30:41 14
10:30:41 15 It would obviously include providing all of your notes and
10:30:46 16 day book entries to enable the magistrate to look at
10:30:49 17 those?---I would have thought so, yes. All relevant ones.
10:30:52 18
10:30:52 19 All relevant ones. And clearly those entries would be
10:30:56 20 relevant, the fact that there had been amendments made to
10:31:00 21 the statement?---Well it's only one entry that's relevant
10:31:03 22 in that, in that page, yes, but I agree, yes.
10:31:07 23
10:31:07 24 I'm not critical of you after that because the fact is,
10:31:12 25 albeit you might have taken it out, it was shown to the
10:31:15 26 magistrate?---Yeah, I'd actually thought I was asked about
10:31:20 27 it too, but yes, you're quite right.
10:31:23 28
10:31:34 29 When you provided the notes to the magistrate to look at,
10:31:40 30 one assumes you provided photocopies of all relevant
10:31:45 31 entries?---I know in the early, in the lead up to the
10:31:49 32 committal we served, you know, hundreds of pages of notes.
10:31:53 33
10:31:54 34 Yes?---They would have been photocopies, yes, of course.
10:32:00 35
10:32:00 36 If they weren't provided to the magistrate it would, I
10:32:05 37 suggest, not be a mistake that they weren't
10:32:09 38 provided?---Well, I mean it could be a mistake, I don't
10:32:12 39 know, but I'd like to think we didn't make too many
10:32:17 40 mistakes.
10:32:18 41
10:32:19 42 If they weren't provided do you think you might have done
10:32:25 43 it because you didn't want Ms Gobbo to be put at
10:32:29 44 risk?---No, I mean I provided enough information that the
10:32:34 45 magistrate knew of Ms Gobbo, so I don't think that would
10:32:40 46 have been in my thinking because the magistrate sees the
10:32:43 47 redactions about Ms Gobbo so I don't know why I would keep

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10:32:46 1 some and not the other.

10:32:49 2
10:32:50 3 All right. Commissioner, if I haven't tendered the
10:33:05 4 evidence of [REDACTED] I'll do so now, the committal
10:33:14 5 evidence of [REDACTED]. I don't believe I have.

10:33:17 6
10:33:17 7 COMMISSIONER: No, I don't think so. The evidence of
10:33:19 8 [REDACTED] at the committal proceedings?

10:33:24 9
10:33:24 10 MR WINNEKE: In the committal proceedings on a number of
10:33:27 11 days, but I think commencing on or about [REDACTED] or [REDACTED] 2005.

10:33:35 12
10:33:35 13 #EXHIBIT RC778 - (Confidential) [REDACTED] evidence at the
10:33:37 14 committal proceeding [REDACTED]/05.

10:33:37 15
10:33:37 16 #EXHIBIT RC778B - (Redacted version.)

10:33:44 17
10:33:45 18 If I can come back to an area that I was dealing with
10:33:48 19 yesterday. I was going to take you to a transcript of a
10:33:55 20 conversation that you had with [REDACTED], we've moved
10:34:00 21 forward now to 15 March 2006. Commissioner, I should say,
10:34:14 22 amongst the materials that have been tendered is a
10:34:20 23 statement of [REDACTED] and I'm happy to do this now in the
10:34:28 24 witness box with Mr Bateson. I asked him if he'd be able
10:34:33 25 to identify the parts in the statement that he believed
10:34:37 26 were changed after Ms Gobbo saw the statement on the first
10:34:40 27 occasion. Is that something you're able to do in the
10:34:44 28 witness box or would it be something that you'd want to do
10:34:47 29 at another time?---Look, I can't remember how long the
10:34:52 30 document is. I'd be happy to do it over the morning break
10:34:56 31 to save time.

10:34:57 32
10:34:57 33 Perhaps we'll do that.

10:34:58 34
10:34:59 35 COMMISSIONER: That will be sensible. I'm not sure that
10:35:01 36 has been tendered.

10:35:02 37
10:35:03 38 MR WINNEKE: It's one of the exhibits in the committal
10:35:05 39 depositions I think, Commissioner, that exhibit that I've
10:35:08 40 just tendered - I'm sorry, it's at p.1119 of the
10:35:14 41 depositions which is the 1076 page document which is the
10:35:20 42 OPP exhibit.

10:35:20 43
10:35:21 44 COMMISSIONER: All right. If you could do that over the
10:35:24 45 midmorning break that would be good, thank you.

10:35:28 46
10:35:28 47 MR WINNEKE: If we can have a look at VPL.0005.0062.0176.

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You went down to see [REDACTED] on 15 March?---Yes.

This was a part of the process of getting [REDACTED] to provide assistance to Victoria Police, do you accept that?---Yes. Not just to Victoria Police, I would have thought to the prosecution.

To the prosecution?---Yep.

So if we have a look at, if we go to p.2 of the transcript you'll see that - this is [REDACTED] following the sentence, is it, of [REDACTED]?---Correct.

And so he's, he's obviously making the point that he'd made previously that you let him get away with [REDACTED] murders and one attempted murder?---Yeah, I think we went over that yesterday, yep.

So that's the one we're looking at. What I wanted to ask you about was an entry at p.26.

COMMISSIONER: For the record this is Exhibit 772.

MR WINNEKE: Yes, thanks Commissioner. Page 26. I'm sorry, p.27. He wanted you to go and see [REDACTED], correct?---I do remember him wanting to do that at some point, I just can't see that line there.

I think you say that you won't do it today, it will probably be tomorrow evening. He says, "Yeah, just ring up and say, 'Look, don't stress, [REDACTED] told me to come and see you'." You go, "Okay" and he suggests that you get your colleague Ms Kerley, "I think she relaxed when she was in the interview room last time. She liked her". So the plan was you would take Ms Kerley to go and see [REDACTED] and to have [REDACTED], and so to get [REDACTED] with the idea of what would necessarily follow if [REDACTED] decided to become a witness for the Crown?---Yes.

And the following day on 16 March 2006 we've got ICR number 191 at the bottom of the page. 191. This is around the time that [REDACTED] statements come to light and Ms Gobbo, an arrangement has been made for her to see you. See at the bottom, "She's seeing investigator Bateson tonight after she sees [REDACTED] and re her concerns regarding the statement of [REDACTED] Told not to discuss SDU matters with the same". Do you see that?---Yeah, I

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10:39:25 1 think that's the conversation where I've been, I talk to
10:39:29 2 her about [REDACTED] statement, yep.
10:39:32 3
10:39:32 4 Yes. And then if we go to p.195 of the ICRs. There's a
10:39:38 5 reference to what was discussed and I'd just like to ask
10:39:42 6 you a couple of matters about that. You saw her for over
10:39:45 7 an hour. "Reasonably happy with the discussion regarding
10:39:49 8 the implications of [REDACTED] statement. Very long story", and
10:39:53 9 you apologise to her for not advising her after the
10:39:56 10 statement was taken that she'd been mentioned. Do you
10:40:00 11 believe you did apologise to her?---Look, if I did it
10:40:04 12 wasn't particularly genuine. I wouldn't be surprised - I
10:40:09 13 wasn't sorry that she was mentioned in that statement.
10:40:12 14
10:40:12 15 No, of course you wouldn't be sorry, why would you be
10:40:18 16 sorry?---I may well have said, "Look, sorry". I know I was
10:40:21 17 tasked by Jim O'Brien to go and speak to her and sometimes
10:40:24 18 it's just easier to say you're sorry, even if you're not.
10:40:30 19 It wouldn't surprise me if I did say that, but I certainly
10:40:35 20 didn't feel sorry about it.
10:40:37 21
10:40:37 22 This seems to be an extraordinary situation. You've got a
10:40:40 23 person who is an adult, who is a barrister, who has found
10:40:43 24 herself in a situation where she has found her way into a
10:40:49 25 statement of at least now a convicted murderer?---Yep.
26
10:40:52 27 Where it's suggested that she's some way involved, and
10:40:55 28 she's angry and upset with you for doing something, that is
10:41:00 29 taking the statement. Did you get the impression that she
10:41:02 30 was somewhat irrational about that?---Not when I met with
10:41:05 31 her. I got the feeling when Jim asked me to go and meet
10:41:09 32 with her that she perhaps was.
10:41:11 33
10:41:11 34 Yes?---But when I got there my memory of it was it was all
10:41:16 35 reasonably civil and okay.
10:41:18 36
10:41:29 37 Your notes, in your notes - you've started to refer to her
10:41:34 38 as 3838 in your notes, so I take it you're seeing her as a
10:41:43 39 registered source, and indeed the statement, the notes that
10:41:46 40 you made at VPL.0005.0058.0333, are to this effect, "15:55
10:41:58 41 hours met with registered source 3838 at South Melbourne
10:42:02 42 café. Discussed issues surrounding [REDACTED] statement"
10:42:07 43 and then there's a reference to a digital recording, or DR,
10:42:12 44 I assume that's digital recording, is that right?---Yes.
10:42:16 45
10:42:16 46 You recorded the conversation?---By that note I did, yes.
10:42:19 47

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10:42:20 1 I mean if we go back to the previous - that does suggest
10:42:23 2 that you recorded it I assume?---Yes.
10:42:26 3
10:42:26 4 What's happened to the recording?---I have no idea. I
10:42:29 5 believe it's been looked for.
10:42:32 6
10:42:33 7 Where would they be kept? So you go down to the café,
10:42:35 8 you've got a recording device, is it a concealed device or
10:42:40 9 what is it?---It was just a little tape - - -
10:42:41 10
10:42:42 11 You don't have to give us the technical details, no one's
10:42:45 12 jumping up but - - - ?---Yeah, no, perhaps I won't. But
10:42:48 13 anyway, yes, it was covert, and when I came back, as with
10:42:54 14 [REDACTED] just downloaded it, put it on to a CD.
10:42:54 15
10:42:59 16 A CD?---And it was put into a safe in Jim O'Brien's office.
10:43:02 17
10:43:07 18 How safe was that safe? There have been a number of
10:43:11 19 recordings in that safe which have gone missing, at least
10:43:14 20 two. Do you know where they would be?---No, you know, when
10:43:18 21 I left Purana they were still there.
10:43:18 22
10:43:22 23 Yeah?---Purana moved, moved floors, packed up, took things
10:43:27 24 away, I'm not sure what happened to it. I would imagine it
10:43:31 25 was still there when Jim O'Brien left. I don't know where,
10:43:36 26 what happened to it from there.
10:43:39 27
10:43:39 28 The reality is when you go and see her you take a recorder,
10:43:44 29 you don't record her name you record her number, but it
10:43:49 30 seems when you look at that that you're going to speak to
10:43:53 31 an informer and not a barrister?---Well look I think, and I
10:43:59 32 mentioned her code name a couple of times in the following
10:44:04 33 entries, the reality is I think that was how Jim referred
10:44:09 34 to her and I may have just been taking Jim's lead. But I
10:44:14 35 do agree with you on this point insofar as, you know, my
10:44:18 36 memory of it is Jim wanted me to go there and I guess
10:44:24 37 smooth the waters.
10:44:25 38
10:44:25 39 Yes?---And I agree at that point I was doing that because I
10:44:31 40 knew - - -
10:44:31 41
10:44:32 42 She was a source?---She was a source not because she was a
10:44:34 43 barrister.
10:44:35 44
10:44:35 45 You wanted to make sure and Jim wanted to make sure this
10:44:39 46 source was kept sweet and kept happy?---I would imagine
10:44:42 47 that was Jim's intent. I wouldn't have done that if it was

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10:44:46 1 just a barrister I don't think. I agree with your
10:44:49 2 proposition there. Although I think the naming is just
10:44:51 3 purely something that Jim, you know, that's how it was
10:44:58 4 spoken about.
10:44:58 5
10:44:59 6 That may or may not be right. If you think about it,
10:45:03 7 here's a person who is an important human source who's
10:45:09 8 providing information to Operation Posse and I suggest, I'm
10:45:14 9 going to suggest, is providing assistance to you, that is
10:45:18 10 to your division of Purana, and it's important that she be
10:45:22 11 kept happy?---Look I didn't know what she, information she
10:45:27 12 was providing at that stage. You know, it doesn't surprise
10:45:31 13 me that she was supplying information, if she was, in
10:45:36 14 relation to Operation Posse. That was the cover all
10:45:39 15 investigation that Jim was running and Jim asked me to go.
10:45:42 16 I wouldn't have gone if it wasn't for Jim asking me to do
10:45:47 17 so. So it wasn't to keep her, keep her happy in terms of
10:45:56 18 her representation of various clients that I was dealing
10:46:00 19 with.
10:46:01 20
10:46:01 21 You say what you were doing was keeping Jim happy because
10:46:05 22 he has her as an important source providing information to
10:46:10 23 his investigators?---Well, all I know is I was keeping Jim
10:46:14 24 happy and she was a human source, whether she was an
10:46:16 25 important human source I don't know.
10:46:18 26
10:46:18 27 Okay?---My boss asked me to do something, I did it.
10:46:22 28
10:46:30 29 You had yourself had communications with the SDU?---Have I
10:46:36 30 at that point?
10:46:37 31
10:46:37 32 Did you speak to the SDU?---I actually, it's in my - I did
10:46:42 33 see a log, source management log earlier this year that
10:46:47 34 said there was a - and I don't know who talked to me, but a
10:46:53 35 conversation with Bateson and O'Brien re minimising human
10:46:58 36 source involvement process of statements.
10:47:00 37
10:47:00 38 Yes. You had a discussion, I suggest, with Mr Jones the
10:47:06 39 following day?---The 19th?
10:47:10 40
10:47:11 41 Yes, the 19th. If we can have a look at
10:47:18 42 VPL.2000.0001.0634. Mr Jones?---Mr Jones. In any case I
10:47:32 43 don't remember the conversation.
10:47:33 44
10:47:34 45 We'll see if we can refresh your memory. If we can put
10:47:38 46 this up. So you'd spoken to him quite some time
10:47:49 47 before?---Quite some time before what?

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1
10:47:51 2 Did I say 19 March?---19 February.

10:47:54 3
10:47:54 4 19 February, yeah. I've said the following day, no, it was
10:47:59 5 19 February. VPL.2000.0001.0634. 19 February. Do you see
10:48:19 6 that discussion between - we'll need the list - between a
10:48:28 7 handler and Ms Gobbo. She had spoken to [REDACTED] at
10:48:31 8 [REDACTED] gaol and she'd spoken to you. This was around the
10:48:37 9 time that you first started dealing with her or speaking to
10:48:42 10 her about the possibility of [REDACTED] coming on board?---Yeah, so
10:48:45 11 I get the call from her and meet with her on the 19th with
10:48:50 12 Jim Valos.

10:48:50 13
10:48:51 14 Yes. And what is noted here is there's an issue and that
10:48:55 15 Bateson's notes may compromise her and the handler is going
10:49:00 16 to - I'm sorry, there's a communication it seems with Jim
10:49:09 17 O'Brien regarding Bateson's notes and the phone number. I
10:49:15 18 assume that's your phone number is given there and he
10:49:18 19 speaks to you, is that right?---That's not my phone number
10:49:24 20 any more, for anyone else in the room - - -

10:49:27 21
10:49:27 22 No, whether or not that is it doesn't matter, but the fact
10:49:31 23 is he speaks to you and you say to him, "Look, nil notes
10:49:35 24 yet. Meeting with human source, Jim Valos this evening re"
10:49:50 25 - - - ?---"Re [REDACTED] can-say."

10:49:52 26
10:49:52 27 "Can-say. Aware of human source, told of the issue." So
10:49:58 28 you know at that stage that she's a human source. "Human
10:50:03 29 source ID and issues"?---That wouldn't have come as a
10:50:17 30 surprise to me.

10:50:18 31
10:50:18 32 No, well you knew that anyway?---When she was registered,
10:50:21 33 yes.

10:50:21 34
10:50:21 35 Then if we go over to the next day?---Can I just see who
10:50:25 36 the alias is of those notes? It might help.

10:50:30 37
10:50:30 38 COMMISSIONER: It's doubly complicated because they've
10:50:34 39 changed?---Right.

10:50:34 40
10:50:35 41 So I think you have to use the old ones which are the
10:50:39 42 handwritten ones. If you look at number 3 on the list,
10:50:42 43 that's the person?---Okay.

10:50:47 44
10:50:47 45 MR WINNEKE: That's Mr Jones, you can see who that
10:50:51 46 is?---He's not number 3 on this list.

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10:50:54 1 COMMISSIONER: It's number 3 on the list?---The main list?
2
10:50:59 3 You don't have the main list, okay, sorry.
10:51:03 4
10:51:03 5 MR WINNEKE: Have a look at that?---So the first one?
10:51:09 6
10:51:09 7 COMMISSIONER: The first one, yes?---The first one on this
10:51:12 8 list?
10:51:12 9
10:51:13 10 Yes.
10:51:13 11
10:51:18 12 MR WINNEKE: If we can go over to p.637, which is 20
10:51:23 13 February. It seems to be that he's spoken to you about
10:51:36 14 notes. "Limit contact, relationship should be managed via
10:51:46 15 Mr Stanton", do you see that?---Can we just flick back?
10:51:54 16 What's this bit about the airfare? Sorry, that's not the
10:52:04 17 next page contextually.
10:52:10 18
10:52:10 19 It is actually. 249, 242. I think it's a different issue.
10:52:17 20 Do you believe you did speak to Mr Jones about that, "The
10:52:27 21 management of the relationship should be through
10:52:30 22 Mr Stanton"?---I don't remember the conversation with him
10:52:36 23 but his diary, his diary indicates that and I'd be willing
10:52:41 24 to accept it. I'm not sure that - - -
10:52:44 25
10:52:44 26 Have a look at 243, so the page before that?---Right. I'm
10:53:00 27 not sure - so I accept on the earlier page you showed me
10:53:05 28 that he had that conversation with me, because I have no
10:53:08 29 doubt that his notes would be correct. I'm just not quite
10:53:11 30 sure about this bit, this is a conversation - - -
10:53:14 31
10:53:15 32 What it appears to be is Gobbo reporting a conversation
10:53:18 33 with you or an update regarding - so what happens is she
10:53:23 34 gives her handler an update, Mr Stanton an update. There
10:53:27 35 was a 52 minute conversation with Ms Gobbo. "General
10:53:31 36 intelligence advise about a Sydney trip to pay airfare.
10:53:34 37 Ms Gobbo", there's some sort of abbreviation, "Will pay.
10:53:40 38 Spoke about Bateson notes. Limit contact. Relationship
10:53:46 39 should be managed via Mr Stanton, the handler". So it may
10:53:52 40 well be that's a discussion between Ms Gobbo and her
10:53:56 41 handler and she's been told that the relationship between
10:54:00 42 her and Purana will be done via the handlers, do you follow
10:54:05 43 what I'm saying, through the SDU?---Yeah, I think that's
10:54:08 44 consistent with other ICRs where she's, she's told her
10:54:13 45 contacts are to be through those guys.
10:54:16 46
10:54:17 47 Yes. So that's a handler giving an update to Mr Jones,

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10:54:22 1 telling him about a conversation that she's had with you,
10:54:27 2 so she tells the handler, then the handler tells Mr Jones,
10:54:32 3 who is the controller? I'm getting all sorts of
10:54:40 4 instructions here. Can I ask you this question?---Yes.
10:54:43 5
10:54:43 6 Was it your understanding that the relationship between
10:54:49 7 Gobbo and Purana was at this stage of the game going to be
10:54:54 8 via the SDU?---As far as her work as a human source, yes.
10:55:03 9 As far as the work as a barrister, no.
10:55:05 10
10:55:06 11 If you're dealing with her, you're dealing with her as a
10:55:09 12 barrister?---Yes.
10:55:10 13
10:55:11 14 If it's about [REDACTED]?---Yep.
10:55:13 15
10:55:13 16 You deal with her aboveboard, not secretly, as a barrister,
10:55:18 17 correct?---Yes.
10:55:20 18
10:55:21 19 Right. Because - - - ?---With the proviso of course, as we
10:55:26 20 know, we later go on to try and protect her.
10:55:30 21
10:55:30 22 Underlying all of this you say is a belief that Carl
10:55:36 23 Williams, no one else in the underworld can know that
10:55:39 24 Ms Gobbo is acting for [REDACTED] and has acted for [REDACTED]
10:55:46 25 [REDACTED] that's effectively what you're saying?---I'm saying that
10:55:49 26 that would cause a serious risk to her safety and even to
10:55:52 27 her life. So the protection of her is not as a barrister
10:56:03 28 but as a, sorry, not as a source but as a barrister?---From
10:56:07 29 my point of view?
30
10:56:08 31 Yes?---From my point of view?
32
10:56:11 33 Yes?---Obviously there's other things going on with the
10:56:15 34 SDU, they're the experts, but from my point of view that
10:56:18 35 was my concern.
10:56:19 36
10:56:23 37 And do you say that this is a matter of public interest
10:56:27 38 immunity?---Yes.
10:56:28 39
10:56:29 40 If that's the case then it's got to be something that the
10:56:34 41 court must be aware of and the court must make a decision
10:56:37 42 about?---Ultimately.
10:56:38 43
10:56:38 44 Ultimately?---Yeah.
10:56:39 45
10:56:39 46 If you're going to do this - and this would be
10:56:42 47 extraordinarily unusual. If you had a case other than this

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10:56:47 1 where you have protected a barrister who is simply doing
10:56:52 2 his or her job by seeking suppression orders in the nature
10:56:57 3 of public interest immunity arguments?---No, that's been
10:56:59 4 the only time in my career, but there was a lot of firsts
10:57:04 5 during those days.
6
10:57:05 7 Yeah, all right?---They were extraordinary times I think,
10:57:07 8 as other witnesses have expressed. People were getting
10:57:10 9 murdered on a monthly basis
10
10:57:13 11 Yes?---At least, sometimes a couple of times a month.
12
10:57:16 13 I think one of the things that was said subsequently was
10:57:20 14 that after [REDACTED] had been arrested, [REDACTED] had been arrested,
10:57:25 15 whilst that wasn't the end of the murders, to a significant
10:57:30 16 degree they discontinued after that?---No.
17
10:57:36 18 There were murders following that?---I would not agree with
10:57:43 19 that proposition, we were in the midst of the battle. You
10:57:46 20 know, these people still were wielding power whilst they
10:57:50 21 were inside so, you know, that's - I don't accept that it
10:57:53 22 was all over when [REDACTED] came on board. I don't accept
10:57:59 23 it was even all over when Carl Williams was found guilty.
10:58:02 24
10:58:03 25 I was simply taking you up on the proposition that on a
10:58:06 26 monthly basis there were murders?---I just don't accept
10:58:09 27 that the, I think what comes with that proposition is that
10:58:14 28 somehow that risk was diminished. It wasn't.
10:58:17 29
10:58:18 30 I follow that. But do you say that there were monthly
10:58:20 31 murders after the arrest of [REDACTED]?---No, there were still
10:58:25 32 murders.
10:58:25 33
10:58:26 34 When was the next murder after that?---It's a matter of
10:58:30 35 public record, I haven't got it with me here. But I think
10:58:32 36 the point I'm trying to make, and I'm sorry, I'm not trying
10:58:36 37 to be argumentative, all I'm trying to say is that the risk
10:58:40 38 was still great.
10:58:40 39
10:58:41 40 Yes?---This was still going on, this didn't diminish
10:58:45 41 because we'd locked a couple up and it wasn't because some
10:58:47 42 of the murders had stopped. That risk was still very, very
10:58:50 43 real.
10:58:50 44
10:58:50 45 I understand what you're saying. It's been said there's
10:58:54 46 blood on the street, murders are happening every month, and
10:58:57 47 you've just made the point. But I'm simply asking you to

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10:59:00 1 say this, after those two fellows were arrested you must
10:59:05 2 have, you must - I'll withdraw that. After those two
10:59:12 3 fellows were arrested when was the next gangland murder,
10:59:16 4 was it a month after, two months after or are we talking a
10:59:21 5 significant break?---No, they followed quite quickly. I
10:59:24 6 mean we arrested them in [REDACTED], so we've got a few
10:59:27 7 murders between there. I think what I'd have to concede is
10:59:30 8 by this stage we're talking to [REDACTED], they've slowed
10:59:34 9 up. But, you know, following their arrest that didn't
10:59:38 10 stop. And certainly the risk I didn't think was mitigated
10:59:42 11 just because some of these key people were in gaol.
10:59:44 12

10:59:44 13 You know it's been said, and it's been said by fairly high
10:59:48 14 up police the importance of getting Ms Gobbo on board was
10:59:53 15 to stop the murders, there was blood on the streets, that's
10:59:57 16 been said?---Has it? Certainly I can say that this was an
11:00:00 17 extraordinary time. There was lawlessness on our streets,
11:00:03 18 there was murders, there were people acting with impunity,
11:00:08 19 people were, you know, they'd nicknamed themselves the
11:00:15 20 Premier.
11:00:16 21

11:00:16 22 Mr Bateson, I'm not going to argue about that. But the
11:00:18 23 fact is when those two fellows were arrested, we're talking
11:00:22 24 a couple of years prior to Ms Gobbo being brought into this
11:00:27 25 process, late 2005, these two fellows are arrested on [REDACTED]
11:00:32 26 [REDACTED] 2003, by that stage it's not a case of blood on the
11:00:37 27 streets, every month there's a murder?---Yeah, they were
11:00:40 28 still happening then.
11:00:42 29

11:00:43 30 Do you say that there were murders happening every month up
11:00:46 31 until the time that Ms Gobbo became a human source on 16
11:00:50 32 September 2005?---I just haven't got those in front of me,
11:00:54 33 but they were certainly continuing towards the end of 2003
11:00:57 34 and early 2004.
11:01:00 35

11:01:00 36 As you say it's a matter of public record?---Yeah.
11:01:03 37

11:01:04 38 All right. After you speak to Ms Gobbo on the 18th - -
11:01:24 39 -?---18th?
11:01:25 40

11:01:26 41 - - - of March, let's go forward to March?---Yes.
11:01:31 42

11:01:32 43 The next thing that happens is you go and have a discussion
11:01:40 44 with [REDACTED], as you said that you would do, and
11:01:48 45 at [REDACTED] suggestion you take Michelle Kerley with
11:01:53 46 you, do you accept that?---I think I go and visit [REDACTED] on
11:01:57 47 the 16th. I go back again on the 22nd. No, sorry, on the

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11:02:02 1 21st and the 22nd. So I meet with [REDACTED] on the 16th of
11:02:06 2 March.
11:02:06 3
11:02:06 4 Yes?---And then again - - -
11:02:08 5
11:02:08 6 The following day, then you go back and you see [REDACTED] on the
11:02:15 7 21st?---21st and 22nd.
11:02:20 8
11:02:22 9 Now what [REDACTED] says is that - what you say is that you speak
11:02:32 10 to [REDACTED] with [REDACTED] and obviously that's by way of
11:02:40 11 telling [REDACTED] what's going to happen down the track after [REDACTED]
11:02:44 12 [REDACTED] paving a way for that?---Are we still in a
11:02:49 13 closed hearing?
11:02:50 14
11:02:50 15 Yes, we are?---Yeah, that's right, we went to [REDACTED]
11:02:55 16 officers and did that.
11:02:56 17
11:02:56 18 I'm not going to go into any detail about it. The meeting
11:03:00 19 was discontinued due to [REDACTED] claiming that [REDACTED] is
11:03:04 20 maintaining his innocence. Do you see that?---I remember
11:03:09 21 that. Where is that note?
11:03:11 22
11:03:12 23 Have a look at your diary entry at 15:20 on - - - ?---Yes,
11:03:19 24 21 March, yep.
11:03:20 25
11:03:25 26 That meeting doesn't last too long it seems, you clear at
11:03:28 27 15:35, so you're only there for about 15 minutes, and
11:03:35 28 shortly after that you get a telephone call from, in fact
11:03:38 29 in your diary from 3838 you've written?---Yes.
11:03:42 30
11:03:43 31 "States that she'd been contacted by [REDACTED] and that [REDACTED]
11:03:49 32 was meeting [REDACTED] in the morning" and you outline to [REDACTED] the
11:03:56 33 meeting that had just occurred. Is that the effect of your
11:03:59 34 note?---Correct.
11:04:00 35
11:04:10 36 What was the purpose of outlining to Ms Gobbo what had
11:04:15 37 occurred in the previous meeting?---Well from my point of
11:04:20 38 view it was just simply - sorry, I didn't - - -
11:04:27 39
11:04:30 40 No, we're all getting distracted. What's the purpose of
11:04:30 41 that?---Sorry, can you ask again? I did get distracted.
11:04:36 42 What was your question?
11:04:36 43
11:04:36 44 What was the purpose of speaking to, as you've written
11:04:40 45 here, 3838, about the meeting which had occurred
11:04:46 46 previously?---Yep.
11:04:47 47

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11:04:48 1 That I've just asked you about?---Yep. So my recollection
11:04:54 2 of that is that by this stage I knew she was acting for
11:04:59 3 [REDACTED] and [REDACTED] was in discussion with whether he
11:05:08 4 would assist the prosecution and part of that assisting the
11:05:11 5 prosecution would be [REDACTED] and [REDACTED] the
11:05:16 6 [REDACTED] and I just provided that advice
11:05:22 7 back. I said, "This is just ridiculous, at the moment he's
11:05:26 8 not even [REDACTED] he's telling [REDACTED] he's
11:05:30 9 innocent". We're a long way from getting to be where we
11:05:34 10 need to be.

11:05:35 11
11:05:36 12 You say that you're speaking to his barrister. What you've
11:05:39 13 recorded here is, "Received a call from 3838". So that's a
11:05:44 14 reference to her in her guise as an informer, as a human
11:05:48 15 source, do you say?---I don't think I'm that sophisticated.
11:05:54 16 It was probably just the conversation I'd had with Jim a
11:05:57 17 few days before, that that was in my mind when I was
11:05:59 18 writing my notes quite quickly. But I certainly don't
11:06:04 19 oscillate between talking to her as a barrister and a human
11:06:07 20 source. I was talking to her at that point as a barrister.

11:06:09 21
11:06:10 22 Can I put this to you, if you're speaking to her as a
11:06:13 23 barrister, there's no reason not to write her name, and
11:06:17 24 indeed one would think that you should be writing her name,
11:06:21 25 do you agree?---I've got no issue with that. I think it
11:06:24 26 was just, you know, when you write notes you're not always
11:06:29 27 thinking, you're just pouring things out on to the page and
11:06:34 28 it was probably just the way that she'd been referred to
11:06:36 29 lately when I was with speaking Jim and instructed to go
11:06:41 30 and meet with her, so I think that persists for a couple of
31 meetings.

32
11:06:44 33 Yeah?---And then I go back to calling her by her name.

11:06:47 34
11:06:49 35 The problem would be though, if your notes are called for
11:06:52 36 there's a note here "3838", when in fact it's Ms Gobbo you
11:07:00 37 say as a barrister. How would that be explained?---Yeah.
11:07:05 38 I'm not sure about that. Thankfully we didn't get to that
11:07:09 39 point I think in the trial.

11:07:10 40
11:07:11 41 Did you not produce these notes?---No, when I say we didn't
11:07:15 42 get to a contested trial, so.

11:07:18 43
11:07:18 44 Yeah?---I don't think I was asked to explain any notes from
11:07:21 45 that point on.

11:07:22 46
11:07:22 47 Right. Look, you've been a Detective, a police officer for

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11:07:27 1 many years, you understood the importance of referring to
11:07:30 2 people by their source numbers and if you are referring to
11:07:35 3 a person as a, who is a source, you simply wouldn't write
11:07:40 4 their name, you'd write the source number surely?---No, I
11:07:45 5 think that was just a, something that I did mistakenly. It
11:07:50 6 was quite clear to me and made quite clear to Ms Gobbo that
11:07:56 7 I wasn't to have contact with her as a human source. We
11:08:01 8 had experts doing that.

11:08:02 9
11:08:03 10 Yes?---And it was experts that would do it. I was only to
11:08:07 11 deal with her in line with her being a barrister.

11:08:10 12
11:08:11 13 All right. So if - I follow what you - if it's - if you
11:08:21 14 deal with a person as a human source you don't deal with
11:08:26 15 the person or you deal with the SDU, is that right?---Yeah.
11:08:30 16 I would, it would not be right, proper or accepted for a
11:08:36 17 human source that's being managed by the SDU for me to go
11:08:41 18 round their back and deal with her. That's for them to do
11:08:48 19 and I accepted that from the beginning.

11:08:51 20
11:08:52 21 Right, okay. In any event Ms Gobbo clearly does have a
11:08:57 22 discussion with [REDACTED] and it seems you get a
11:09:03 23 call from [REDACTED] the following day and [REDACTED] says
11:09:09 24 that [REDACTED] now wants you to go and see him tomorrow and stated
11:09:14 25 that he wants to tell you the truth?---Yes.

11:09:19 26
11:09:19 27 Do you see that?---Yes.

11:09:20 28
11:09:20 29 And it seems that - the inference would be that as a
11:09:24 30 consequence of Ms Gobbo speaking to [REDACTED],
11:09:31 31 regardless of what might have been said, it seems following
11:09:35 32 that conversation [REDACTED] is now, sorry, [REDACTED] is now
11:09:40 33 comfortable for you to go and see him and [REDACTED] comfortable
11:09:45 34 with the idea of him assisting the police?---I'm not sure
11:09:48 35 one follows the other. I think from my point of view [REDACTED]
11:09:51 36 says that [REDACTED] wants to see us. The stumbling block
11:09:55 37 with [REDACTED] at that point was he was saying he's innocent. I
11:09:59 38 suspect what's happened in between times, by whatever
11:10:03 39 mechanism, he's actually said [REDACTED], [REDACTED], I'm in a bit of
11:10:10 40 trouble here [REDACTED] need to do this".

11:10:12 41
11:10:12 42 How do you know that?---I think it follows from the note,
11:10:15 43 you know, because I remember quite clearly the stumbling
11:10:18 44 block for [REDACTED] was, "No, no, he's innocent of all this.
11:10:22 45 He tells me he's innocent of all this". So the only thing
11:10:25 46 that would have changed [REDACTED] mind I think was him saying,
11:10:32 47 "Maybe not".

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11:10:32 1 [REDACTED]
11:10:33 2 [REDACTED] 'd had a meeting with you and the [REDACTED]
11:10:36 3 [REDACTED] beforehand?---Yes.
11:10:38 4
11:10:38 5 So [REDACTED] must have known what the purpose of that was?---But
11:10:41 6 that's exactly my point. I think at that point [REDACTED] was
11:10:46 7 going "Well why are you even here? I'm going [REDACTED]
11:10:48 8 [REDACTED] He's an innocent man". By this stage [REDACTED]'s
11:10:52 9 telling me that he wants to see us and tell the truth. So
11:10:55 10 I think the most logical scenario is he's actually said [REDACTED]
11:10:59 11 [REDACTED] "This is, this is not, maybe I won't claim innocence".
11:11:05 12
11:11:06 13 I'll just suggest to you this. What it looks like is
11:11:11 14 Ms Gobbo, being referred to as 3838, rings you up
11:11:15 15 immediately after she gets wind that [REDACTED] isn't going
11:11:21 16 to be assisting the police. She's referred to as 3838, she
11:11:26 17 speaks to this person and smooths things over and
11:11:31 18 everything is right again, we're moving down the track of
11:11:35 19 this person assisting police, rolling. Do you follow what
11:11:39 20 I'm saying?---I do follow it.
11:11:41 21
11:11:41 22 You say, "That's not right, insofar as my note suggests
11:11:45 23 3838, I'm not dealing with her as an informer or someone
11:11:48 24 who is assisting police to get this fellow over the
11:11:52 25 line"?---Exactly, I'm dealing with her as a barrister.
11:11:54 26
11:11:54 27 All right, okay?---And, you know, the plausibility of [REDACTED]
11:12:01 28 [REDACTED] speaking to him seems a much more probable scenario.
11:12:05 29
11:12:06 30 Yeah, okay. Were you surprised to get a call from her,
11:12:17 31 Ms Gobbo?---Not really, no.
11:12:19 32
11:12:19 33 What was your understanding that she was acting for [REDACTED]
11:12:25 34 [REDACTED]?---On what basis?
11:12:26 35
11:12:26 36 Yes?---I go to the office with, to meet her and Jim Valos
11:12:31 37 and she says that he wants to see us around the murders.
11:12:37 38
11:12:37 39 Yes?---So from that, that point I guess I accepted that she
11:12:41 40 was, she was acting for him.
11:12:45 41
11:12:46 42 Now, you then go and speak to him the following day on 23
11:12:55 43 March?---Yes, after [REDACTED] told us to go and see him,
11:12:59 44 yep.
11:12:59 45
11:13:00 46 In fact just before we do that, can we go to this document,
11:13:05 47 VPL.6024.0200.7418. We've got a number of your emails and

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11:13:28 1 it seems, I don't know whether I'm right about it, but were
11:13:33 2 you in the habit of sending emails to yourself by way of
11:13:37 3 email reminder?---I don't do that any more but I used to,
11:13:43 4 yes.

11:13:43 5
11:13:43 6 What's that about?---Look, when I go back, I don't
11:13:47 7 initially have it in my note of 18 March, but I know she
11:13:53 8 says, because I've seen an ICR, that she talks, she says
11:13:58 9 she talks to me about getting a 465 warrant, and my memory
11:14:03 10 of it is Carl had got [REDACTED] or [REDACTED] to write a
11:14:11 11 false statement about [REDACTED]
11:14:14 12

11:14:14 13 Yes?---So I think, looking back at the sequence of events,
11:14:20 14 that must have been a reminder for me to do that.

11:14:23 15
11:14:23 16 All right. If you go to ICR p.195. This occurs during the
11:14:35 17 discussion you have with her where she's going crook at you
11:14:40 18 for not telling her about the statement that you took, the
11:14:44 19 contents of it?---Yes.

11:14:45 20
11:14:46 21 Which of itself you agree is somewhat extraordinary that a
11:14:50 22 barrister would suggest to you that you should have done
11:14:54 23 that, do you agree?---I can't think of another time when
11:15:00 24 someone has done that.

11:15:02 25
11:15:09 26 She goes on and says that she believes her trust in you
11:15:16 27 hasn't been misplaced. She asked you to get a 465 warrant
11:15:20 28 on her office before taking a statement regarding the
11:15:27 29 [REDACTED] matter and better to do it this week because of
11:15:31 30 pressure from Solicitor 2. Now, I was asking you before
11:15:40 31 about whether you were going to get a statement from her
11:15:42 32 about that. That's what that discussion is about, isn't
11:15:46 33 it?---I didn't think so, I thought it was about the
11:15:52 34 statements. I've got a note of it being recorded on ICR
11:15:59 35 23, does that - - -
11:16:00 36

11:16:01 37 "I asked him to get a 465 warrant on her office before
11:16:05 38 taking a statement regarding the [REDACTED] matter and
11:16:09 39 better to do it this week." [REDACTED] statement has
11:16:12 40 already been taken and that's what causes the upset.

11:16:16 41
11:16:16 42 COMMISSIONER: This is ICR 23?---Is it? Okay. Yeah, so
11:16:23 43 that scenario doesn't seem plausible if that's what she's
11:16:28 44 saying.

11:16:28 45
11:16:29 46 MR WINNEKE: No. So what I'm suggesting to you is you're
11:16:31 47 talking to her about getting a statement from her about the

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11:16:34 1 allegations that had been made or the suggestions that had
11:16:37 2 been made in [REDACTED] statement and she's suggesting,
11:16:43 3 "You better get a warrant and get my notes first so as I
11:16:48 4 can make the statement about those notes which you've
11:16:51 5 seized from my office lawfully and I don't have to breach
11:16:56 6 privilege or whatever to make the statement". Can I
11:17:00 7 suggest that that's what that discussion is about?---It
11:17:03 8 could be. It could be.
11:17:04 9
11:17:05 10 And I asked you before why didn't you get a statement from
11:17:08 11 her, it would seem to be the obvious thing to do, wouldn't
11:17:11 12 it?---Yeah, yeah, I think - yeah, I don't, I don't know if
11:17:20 13 that necessarily follows but probably - and I don't think I
11:17:25 14 actually even do it, I think Mark Hatt ends up doing it.
11:17:29 15
11:17:30 16 Yeah?---All I can think is whatever that was about was not
11:17:33 17 exactly high on my priority list at that time, even though
11:17:38 18 I sent myself a reminder for it.
11:17:41 19
11:17:42 20 You do, you sent yourself a reminder a few days later. Can
11:17:46 21 I suggest one of the reasons why you didn't get a statement
11:17:49 22 would be because of the possibility that she might have to
11:17:51 23 get into the witness box and there might be embarrassment
11:17:56 24 insofar as her role as a human source, for one, would that
11:17:58 25 be a concern?---I don't even remember thinking about that
11:18:01 26 statement, so if that's what it is referring to, and you
11:18:04 27 may be right, I don't even remember thinking about it. So
11:18:10 28 I don't know that I can explain what considerations went
11:18:13 29 into my mind. I would think, because I think Mark goes on
11:18:17 30 to grab it, I would think that it just got away from me, it
11:18:21 31 wasn't as important as some of the other tasks that I had
11:18:24 32 to attend to.
11:18:25 33
11:18:25 34 Is it a matter that you discuss with Mr O'Brien or
11:18:30 35 Mr Ryan?---Look, I update them on the meeting with her.
11:18:37 36
11:18:37 37 Yes?---So, yeah, I didn't even take a note of it in, in
11:18:43 38 that meeting, so I'm not sure that I - - -
11:18:45 39
11:18:46 40 You recorded the conversation, didn't you?---Yeah, I record
11:18:48 41 the conversations. I just don't know, Mr Winneke. I'm not
11:18:51 42 trying to be dismissive of what you're saying but I just, I
11:18:56 43 don't recall the conversation. I've seen that I sent
11:19:00 44 myself a reminder to do so, I still don't do anything about
11:19:04 45 it I just don't know that I considered it important, so I
11:19:07 46 just don't recall it at all.
11:19:08 47

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11:19:10 1 As I said to you yesterday this is a person who is a
11:19:12 2 barrister in relation to whom a significant allegation is
11:19:16 3 being made and you say, "Look, it really wasn't important
11:19:19 4 enough for me to worry about and I'd forgotten about it a
11:19:23 5 few days later on"?--I'm not sure that it's not important
11:19:28 6 enough for me to do anything about it. I'm just saying I
11:19:31 7 had much bigger and more important tasks on my list. I
11:19:35 8 think looking through the chronology, we eventually get to
11:19:39 9 that. Doesn't Mark Hatt do, one of my team do a 465
11:19:44 10 warrant on her chambers?
11:19:46 11
11:19:47 12 Yes?---So I think we get to it eventually but - - -
11:19:51 13
11:19:51 14 What occurs eventually after you do get to it?---I have
11:19:57 15 actually, as I said, I don't have a recollection of this at
11:20:01 16 all.
11:20:02 17
11:20:03 18 Commissioner, I wonder if we could have the midmorning
11:20:07 19 break.
11:20:07 20
11:20:07 21 COMMISSIONER: Yes, all right then.
11:20:09 22
11:20:38 23 (Short adjournment.)
24
11:48:56 25 MS ENBOM: Commissioner, may I raise a matter before we
11:48:58 26 resume the evidence.
11:48:59 27
11:49:00 28 COMMISSIONER: Yes, Ms Enbom.
11:49:02 29
11:49:02 30 MS ENBOM: You'll remember Mr Winneke spent quite a lot of
11:49:05 31 time yesterday cross-examining the witness about [REDACTED]
11:49:09 32 [REDACTED] statement in relation to the murder of [REDACTED]
11:49:11 33 and we revisited that topic this morning.
34
11:49:14 35 COMMISSIONER: Yes.
11:49:14 36
11:49:15 37 MS ENBOM: Last night I asked my instructors to send to me
11:49:23 38 a copy of [REDACTED] statement and I was emailed a number
11:49:29 39 of documents and I opened those attachments, and when I
11:49:34 40 opened them I could see that the statements that had been
11:49:37 41 sent to me were unsigned, which made me immediately think
11:49:43 42 that they were drafts.
43
11:49:44 44 COMMISSIONER: Yes.
11:49:45 45
11:49:46 46 MS ENBOM: One of the attachments, which is a document -
11:49:54 47 one of the statements that was an attachment to the email,

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11:49:58 1 which was produced to the Commission on 1 September, is
11:50:04 2 titled "after alterations after Gobbo meeting". Looking
11:50:12 3 at that title I then thought to myself if there's an
11:50:17 4 electronic version with that title, perhaps there is an
11:50:24 5 electronic version of an earlier draft of statement.
6
11:50:29 7 COMMISSIONER: Yes.
11:50:29 8
11:50:30 9 MS ENBOM: So I then contacted the client first thing this
11:50:33 10 morning and asked that urgent inquiries be made and a
11:50:39 11 number of police then conducted searches this morning and
11:50:46 12 they have just sent to me, or just before we broke for the
11:50:49 13 morning break they've sent to me some drafts of statement
11:50:55 14 and it appears that one of them - in the time
11:51:02 15 available I haven't been able to look at them closely, but
11:51:05 16 I can see that in one of them, I can see differences
11:51:08 17 between the first statement they've sent me and the signed
11:51:11 18 statement, and it appears from the change that it might be
11:51:19 19 the electronic version of the printed document that
11:51:25 20 Mr Bateson said in evidence yesterday that he had securely
11:51:30 21 destroyed. So the electronic version, it appears it might
11:51:36 22 be, the electronic version of the statement that Ms Gobbo
11:51:40 23 saw before she advised and then went on
11:51:52 24 to make some changes to the signed version.
25
11:51:56 26 COMMISSIONER: Yes.
11:51:57 27
11:51:57 28 MS ENBOM: That's what's transpired over the last little
11:52:00 29 while. I will need to collate all of those drafts and
11:52:08 30 produce them to the Commission obviously.
31
11:52:10 32 COMMISSIONER: Yes.
11:52:11 33
11:52:11 34 MS ENBOM: And I'll work out over the next little while the
11:52:15 35 most efficient way of doing that. I think this witness
11:52:19 36 will be back tomorrow, that's my estimate at the moment. I
11:52:23 37 might be wrong, but that's my estimate. If he's to be back
11:52:28 38 tomorrow then counsel assisting might like the benefit of
11:52:31 39 this evening to look through those drafts. But I will try
11:52:36 40 to get them all up here before the lunch break so that
11:52:41 41 they're available to be reviewed over lunch as well.
42
11:52:44 43 COMMISSIONER: Thanks very much for that, Ms Enbom. The
11:52:47 44 Commission appreciates that assistance.
45
11:52:51 46 MR WINNEKE: I thank my learned friend for drawing that to
11:52:54 47 my attention. I might say, Commissioner, whilst it appears

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11:52:57 1 to be the case that we have been provided with the
11:53:00 2 document, I hadn't been aware of it. We've got hundreds of
3 - - -
4

11:53:07 5 COMMISSIONER: Thousands, tens of thousands.
6

11:53:09 7 MR WINNEKE: Thousands of documents, and that one hadn't
11:53:10 8 come to my attention, but in any event there we are. I
11:53:23 9 might just leave that for the moment, Commissioner, and
11:53:25 10 just continue with where we're going. We might have a look
11:53:28 11 at the document and do the comparison in due course.
11:53:30 12 Mr Bateson has done his memory test and no doubt we'll
11:53:34 13 compare with it what appears to have been, as I understand
11:53:38 14 it, a document which had been created on 22 June. One of
11:53:41 15 the drafts is 22 June. Insofar as that's the [REDACTED]
11:53:46 16 murder statement, that would be consistent, wouldn't it,
11:53:49 17 because I think that statement was taken on the 22nd, or
11:53:58 18 was it the 23rd - 20th to the 22nd of June?---I can't
11:54:04 19 remember the dates. This is a surprise to me, as you would
11:54:09 20 know, so I don't know. 22nd, let's have a look here.
11:54:14 21 Sorry, wrong year. 22nd, 23rd and 25th were there at the
11:54:59 22 prison.
23

11:55:00 24 So 22nd, 23rd and 25th in relation to the [REDACTED] murder
11:55:05 25 statement?---I'm not sure that I have those details in my
11:55:09 26 notes.
27

11:55:10 28 Yes?---Which ones are which. I may have to refer back.
11:55:15 29 I'm just looking at the chronology at the moment.
30

11:55:18 31 Where would we find the answer to that question, would it
11:55:20 32 be in your notes or would it be in Mr Hatt's notes? At
11:55:24 33 that stage you were going out and speaking to [REDACTED] and
11:55:29 34 getting the information from him, is that right? Because
11:55:34 35 your notes suggest that you were going out and seeing him
11:55:37 36 on those days?---I'm just bringing them up.
37

11:55:41 38 Yeah?---22nd, 23rd. I'm not sure that I do have a note of
11:56:30 39 when which one was which. Maybe that's from Mark's.
40

11:56:34 41 Perhaps if we can put this document up, VPL.0005.0058.0136.
11:57:01 42 That's 21 June?---Yep.
43

11:57:08 44 You go to [REDACTED] Prison. Then the Wednesday the 23rd
11:57:17 45 of June, is there any indication in those notes as to when
11:57:23 46 the statement was commenced?---No, I can't see.
47

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11:57:31 1 We don't appear to have any notes between 18 June and 21
11:57:37 2 June. Do you have your day book there which - - - ?---I
11:57:43 3 do.
4

11:57:43 5 And is there any suggestion that you'd been out to the
11:57:46 6 prison on the 19th and 20th?---No, that was a weekend.
7

11:57:49 8 Yep?---Yeah, I've got notes for the Friday and then the
11:57:53 9 Monday, so I suspect I possibly had the weekend off.
10

11:57:57 11 Okay. Then if we go over the page. If we go perhaps over
11:58:10 12 to Friday 25 June?---Oh yeah, there you go.
13

11:58:20 14 You see it seems that you commence the [REDACTED] statement, or
11:58:25 15 taking, getting information from him, one assumes you're
11:58:28 16 commencing, getting the statement; aren't you?---I don't
11:58:32 17 know if it's a commencement or continuation, I don't know
11:58:36 18 from that note.
19

11:58:42 20 When do you believe you commence getting the statement from
11:58:44 21 him?---I couldn't tell you from my notes.
22

11:58:46 23 Yeah. In any event, it seems that you go out there, you're
11:58:53 24 at [REDACTED] Prison at 9.30 and then you clear at 15:30
11:58:57 25 and it seems in that period all that's written is, "[REDACTED]'s
11:59:03 26 statement". So it would seem, wouldn't it, at that time
11:59:07 27 you're getting the statement from him?---Yep.
28

11:59:09 29 Then if we go down to the bottom of the page, "At [REDACTED]
11:59:15 30 [REDACTED] Prison", again with [REDACTED]. Then underneath that you
11:59:16 31 get there at 9.30. 11.45 lunch. But prior to that, and
11:59:26 32 between 9.30 and lunch, you have the [REDACTED] statement,
11:59:32 33 that's 1.32?---Yes.
34

11:59:34 35 You return to the statement and then you clear at 4.30. It
11:59:37 36 seems at the very least you're getting a statement on 25
11:59:41 37 June. Then if we go over to 30 June, that's when it says
11:59:57 38 that you speak to Geoff Horgan. You agreed that there's a
12:00:07 39 particular paragraph not required in the [REDACTED] statement. And
12:00:13 40 you clear with Hatt. Then you go back to [REDACTED]
12:00:16 41 Prison after speaking to Mr Horgan and then you're working
12:00:22 42 on "re [REDACTED]", so again [REDACTED] from 10.30 to 11.45, then
12:00:27 43 lunch. 12.30 onwards [REDACTED] again. Then you speak to
12:00:31 44 him about [REDACTED]?-- [REDACTED] or [REDACTED].
45

12:00:37 46 Or [REDACTED]. Well if we go through it. It seems,
12:00:41 47 doesn't it - - - ?---Probably [REDACTED].

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1
12:00:44 2 [REDACTED] more likely, because you've been calling the
12:00:48 3 other one [REDACTED]?---Yep.
4
12:00:58 5 I'm just trying to find when it was that you were working
12:01:08 6 on the statement that we're concerned about?---Probably
12:01:15 7 would have been in that first times I think. Have we got
12:01:19 8 Mark's notes? He might have better notes of when we
12:01:24 9 started it.
10
12:01:27 11 In any event, we'll have to have a look at that. And it
12:01:35 12 may well be that you'd taken, or you'd commenced taking
12:01:39 13 that statement earlier, all right?---(Witness nods.)
14
12:01:44 15 Okay. In fact over the lunch I think you had a look over
12:01:47 16 the statement and did you your best, and I must say I
12:01:50 17 didn't know that we'd this statement beforehand, but you
12:01:53 18 made an effort of making what you recall to be the
12:01:57 19 amendments to the statement obviously based on your
12:02:01 20 recollection; is that right?---Sorry, I only looked at it
12:02:04 21 based on the slight alterations to his belief from my
12:02:10 22 notes, that alteration.
23
12:02:15 24 Your recollection is that was - and I think you put a
12:02:17 25 sticky tab on it with some writing on the first page, that
12:02:21 26 is at around paragraph 9; is that right?---Yeah, I think
12:02:23 27 that's what it was.
28
12:02:26 29 You've said, "It did cross my mind that something further
12:02:31 30 was going to occur", that's what you've written?---Yep.
31
12:02:35 32 And obviously what is in the statement is, "I believed that
12:02:41 33 the job would involve shooting [REDACTED]"?---I think - my
12:02:46 34 memory of it is that we pushed him on the point, "Well,
12:02:50 35 hang on, you're saying you don't know it's a murder and
12:02:54 36 here you are telling us that you'd been involved in the
12:02:57 37 murder of [REDACTED]
38
12:02:58 39 Yeah?---"And been involved in the murder of [REDACTED]
12:03:00 40
12:03:01 41 Yeah?---"What, it didn't even cross your mind?"
42
12:03:10 43 Yeah. I mean ultimately this all came about, you'd
12:03:13 44 prepared the statement on, the statement had been prepared
12:03:15 45 in daft, it had been taken out to him on the 9th, whether
12:03:21 46 it be in electronic form or handwritten form, and he asked
12:03:27 47 for those two sentences to be added or two lines to be

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12:03:29 1 added to paragraph 52. There was no change to any other
12:03:35 2 part of the statement and he was satisfied with that at the
12:03:38 3 end of that meeting subject to what Nicola Gobbo
12:03:41 4 said?---Yep.
5
12:03:41 6 Then when she saw it, she suggested that he wasn't telling
12:03:48 7 the truth?---Yes, I think she - - -
8
12:03:55 9 And she told you that, she contacted you and said, "He's
12:03:59 10 going to be truthful and I'm going to go and speak to him
12:04:03 11 tomorrow". Then on the 12th you go out again and there are
12:04:06 12 changes made to his statement regarding his belief?---Yep.
12:04:11 13 Minor changes I think we've got there.
14
12:04:13 15 You don't say minor changes in your notes?---I don't?
16
12:04:20 17 No. "Some changes made to the statement", in plural, "Some
12:04:26 18 changes made to [REDACTED]'s statement re his belief".
12:04:29 19 That's what's written in your note?---Okay.
20
12:04:31 21 That's at page - - - ?---Yeah, yeah, got that.
22
12:04:34 23 Yeah, okay. In any event, no doubt we'll have a look at
12:04:43 24 this document and we'll see if there are any changes.
12:04:48 25 Okay. I was asking you about whether or not there was a
12:05:00 26 desire, an intention to get a statement from Nicola Gobbo
12:05:06 27 and you say well, look, there might have been the odd
12:05:14 28 concern about that?---Yes.
29
12:05:16 30 Certainly the subject of the email that you sent to
12:05:18 31 yourself suggests that it was your intention at that stage
12:05:20 32 to get a statement from her?---No, I don't think that. It
12:05:24 33 talks about notes, doesn't it?
34
12:05:26 35 Let's have a look at the document again,
12:05:35 36 VPL.6024.0200.7418. "Must do affidavit to get notes", but
12:05:53 37 what's the subject?---Nicola statement.
38
12:05:58 39 Right. So the intention was at that stage at least, and
12:05:58 40 you're reminding yourself, having had the discussion with
12:05:59 41 her on 18 March, to get a statement from her?---Possibly.
42
12:06:02 43 That's consistent with the notes that are recorded in the
12:06:08 44 ICR, do you agree with that?---Oh, I think so, yes.
45
12:06:18 46 If I haven't tendered that, Commissioner, I tender that.
12:06:27 47

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12:06:28 1 #EXHIBIT RC779A - (Confidential) Email from Mr Bateson to
12:06:30 2 self 22/3/06.
12:06:36 3
12:06:37 4 #EXHIBIT RC779B - (Redacted version.)
12:06:38 5
12:06:39 6 If I can come back to your diary entries. On [REDACTED] of
12:06:59 7 2006 you attended at the Supreme Court and there was a
12:07:09 8 mention before Her Honour Justice King; is that
12:07:14 9 right?---I'll just bring that up. Yes.
10
12:07:22 11 It was a mention in the [REDACTED] trial and return of
12:07:26 12 subpoenas issued by Solicitor 2. There was criticism by
12:07:31 13 the judge for failing to respond fully to the subpoena on
12:07:35 14 this date, despite short service and despite the workload.
12:07:45 15 You're a bit aggrieved about that but in any event that's
12:07:48 16 what you record in your notes?---Yes.
17
12:07:50 18 And it says that, "Raised issue of Solicitor 2's conflict".
12:07:57 19 Do you recall who raised that issue?---I'm just going back
12:08:02 20 to my supplementary statement. Did I cover that one in
12:08:06 21 that? I'm not sure that I did. 28 March.
22
12:08:11 23 In any event, there was a discussion in that mention
12:08:16 24 hearing about a conflict of interest that Solicitor 2 had
12:08:19 25 because she had previously acted for both Carl Williams and
12:08:25 26 [REDACTED]; is that right?---You'd have to refresh my memory
12:08:31 27 but that would, that would probably follow.
28
12:08:34 29 All right. What you note is that parties were to consider
12:08:38 30 her position and the matter was then adjourned to a further
12:08:42 31 hearing on the Thursday of that week, correct?---Yes.
32
12:08:47 33 Then the following day you go and have a meeting with the
12:08:53 34 DPP, Mr Horgan, Vaile Anscombe, Gavan Ryan and Simon
12:08:58 35 Overland?---Yes.
36
12:08:59 37 And there was a discussion about the possibility of a plea
12:09:02 38 which was floated by Mr Heliotis on behalf of Carl
12:09:10 39 Williams, correct?---Yes.
40
12:09:12 41 And it was decided that if he pleaded to the Moran
12:09:18 42 prosecution, "Would say it is open to you to impose a
12:09:22 43 minimum sentence however he would have to make" or "take
12:09:26 44 his chances on the other charges", that was the effect of
12:09:29 45 the discussion; is that right?---Yes.
46
12:09:33 47 Do you believe there was any discussion about the position

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12:09:35 1 of his solicitor, Solicitor 2?---I don't recall that.
2
12:09:48 3 At that stage certainly the judge, there had been
12:09:52 4 discussion in the previous hearing about the conflict and
12:09:55 5 that was an issue that was going to be discussed the
12:09:58 6 following day. Do you think that might have been discussed
12:10:02 7 amongst the people who were at that meeting?---Oh, it could
12:10:07 8 have been, I don't know if it was. They might have had
12:10:11 9 that conversation not in my presence, I don't know. I
12:10:15 10 don't remember it.
11
12:10:17 12 Do you recall having discussions with any of your more
12:10:20 13 senior officers about the position of - the conflicted
12:10:25 14 position of Solicitor 2?---No, I don't.
15
12:10:30 16 Then there's the further hearing on 30 March and a number
12:10:36 17 of matters occurred on that day. The issue of a conflict
12:10:45 18 arises again and there was - I take it you were present on
12:10:55 19 this occasion because in fact you gave evidence on this
12:10:57 20 day, didn't you? You've got a copy of the
12:11:01 21 transcript?---I'm not sure if I've read that one but I
12:11:03 22 accept that I was there. I've got it in my diary that I
12:11:07 23 was there.
24
12:11:08 25 Yeah, okay?---I may - yes, so I did give evidence on that
12:11:18 26 day, yep .
27
12:11:19 28 In your notes you say this, there was argument over
12:11:36 29 statements, there was editing of statements with a view to
12:11:40 30 making claims of public interest immunity obviously; is
12:11:43 31 that right?---Yeah, at that stage there were some arguments
12:11:47 32 around ongoing investigations and what statements of
12:11:50 33 [REDACTED] could be handed over.
34
12:11:53 35 So that the statements were put before Her Honour the judge
12:11:57 36 and then there was discussion about whether those
12:12:00 37 statements should be redacted in such a way to protect
12:12:03 38 ongoing investigations Purana was carrying out?---Yes.
39
12:12:09 40 And argument was put as to why it was necessary to have
12:12:13 41 those redactions made?---Yes.
42
12:12:18 43 Then you made some edits to the statements and they were
12:12:26 44 forwarded to the court and approved and then emailed on to
12:12:30 45 the OPP for service on the defence and hard copy service
12:12:34 46 was requested; is that correct?---That sounds about right.
47

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12:12:38 1 And also there was an issue about Solicitor 2 who,
12:12:43 2 according to your notes, was told by Justice King her
12:12:46 3 conflict was clear and she was not to act for Carl Williams
12:12:50 4 in the [REDACTED] trial and Solicitor 2 undertook not to
12:12:56 5 speak to Carl Williams about the [REDACTED] and a
12:13:07 6 solicitor to be Solicitor 2's associate. And you obviously
12:13:13 7 make your comment there about that being a fairly
12:13:16 8 ineffectual direction as far as you were concerned?---Yeah,
12:13:19 9 I think that conflict was raised by [REDACTED] I think I
12:13:25 10 have a memory of him objecting. I think that's in my
12:13:28 11 supplementary statement.
12

12:13:29 13 Yeah. Indeed, I think, as we understand it, I think - I
12:13:40 14 think we've got a transcript of that hearing. Just excuse
12:13:43 15 me. At p.3 I think of the transcript we see that - perhaps
12:14:13 16 if we go to the bottom of the first page. The judge is
12:14:20 17 looking at some authorities on conflict and then Solicitor
12:14:26 18 2 at the bottom of the page is asked to address a few
12:14:29 19 matters. She accepted that she was withdrawing in relation
12:14:32 20 to any matters that relate to [REDACTED] "The situation
12:14:35 21 with this however, and the submission we'll be making to
12:14:38 22 the Ethics Committee is that if I were to withdraw from not
12:14:42 23 even being present in court, have any involvement with
12:14:46 24 matters pertaining to [REDACTED] but still maintain the
12:14:48 25 conduct of the remaining matters and in light of the fact
12:14:50 26 that", and Her Honour said, "When you say remaining
12:14:58 27 matters, what do you mean?" And she says, "Continue with
28 the trials as they presently are but not have any, not be
29 present in court or have any involvement with the
12:15:00 30 examination of [REDACTED]". She says, "No, I don't think
12:15:00 31 that would be sufficient. I don't think you can have
12:15:03 32 anything to do with this trial because you took
12:15:07 33 instructions, I would presume, from [REDACTED] in respect of
12:15:10 34 this proceeding". I take it you were in court and you
12:15:16 35 heard those words fall from the judge?---Yes, I was there.
36

12:15:20 37 And then what happened was I think at p.7 of the transcript
12:15:30 38 Mr Horgan apparently had been provided with a letter which
12:15:37 39 had been written by - he says, "Can I deal with one other
12:15:44 40 matter, Your Honour. I've been instructed that [REDACTED]
12:15:47 41 has written to the Law Institute because he's very
12:15:49 42 concerned about this question of conflict of interest. I
12:15:52 43 have a copy for Your Honour of the letter that he's written
12:15:54 44 to the Law Institute on the topic and I can read it into
12:16:00 45 the transcript if that's a convenient way of doing it?" In
12:16:06 46 short, effectively what [REDACTED] is complaining about is
12:16:10 47 that, "Having [REDACTED]", that is counsel

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12:16:22 1 being Mr Grant and Solicitor 2, "[REDACTED] in [REDACTED]
12:16:26 2 [REDACTED] matters for which I now intend to give evidence in and
12:16:29 3 be cross-examined on, it would be most unfair, not to
12:16:33 4 mention an abuse of trust and confidentiality, to answer
5 questions pertaining to matters and material contained
12:16:38 6 within my file which is currently being held by the above
12:16:41 7 mentioned". So he's making it clear that he's aggrieved at
12:16:44 8 the suggestion that those people who had previously advised
12:16:48 9 him would be acting for someone else and be cross-examining
12:16:52 10 him. That was what his complaint was?---Yes.

11
12:17:06 12 I tender that transcript, Commissioner.

12:17:11 13
12:17:12 14 #EXHIBIT RC780A - (Confidential) Transcript of [REDACTED]/06
12:17:15 15 before Justice King.

12:17:19 16
12:17:19 17 #EXHIBIT RC780B - (Redacted version.)

12:17:29 18
12:17:29 19 Anyway, the next thing that I want to take you to is 19
12:17:41 20 April. You have a meeting with ADDI O'Brien and Ryan, Jim
12:17:55 21 O'Brien and Ryan, about [REDACTED]?---19 April 2006?

22
12:17:59 23 Yes, 19 April 2006. You have a meeting with O'Brien and
12:18:04 24 Ryan. Do you see that in your diary?---Yes.

25
12:18:06 26 You resolved that you, the police - "There would be nil
12:18:14 27 further approach from us at this stage and you would supply
12:18:20 28 transcript to 3838 with edits and have her approach [REDACTED]
12:18:28 29 [REDACTED], right? That was the agreement on that day?---Yes.

30
12:18:34 31 A couple of things that we could note about that. Firstly,
12:18:38 32 the reference is, not to Ms Gobbo but to 3838?---That's
12:18:45 33 used in that note, yes.

34
12:18:47 35 And can I suggest that that was deliberately used, 3838,
12:18:53 36 that was deliberately used by you?---No, I think that may
12:18:59 37 have been how Jim referred to her, it often was.

38
12:19:04 39 Yes?---So I may have just taken that down as a note while
12:19:13 40 he was speaking, I'm not sure, or just shortly after.

41
12:19:16 42 Again, that would be an error, would it?---Look, in my view
12:19:20 43 I was still considering her, dealing with her as a
12:19:24 44 barrister rather than a human source.

45
12:19:26 46 Now in this case if you refer to someone who is a barrister
12:19:35 47 by a number, it would clearly telegraph that that person is

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12:19:41 1 a human source? So if someone was to get hold of those
12:19:46 2 notes a question would be raised as to why this person,
12:19:50 3 this barrister, you say you're dealing with in an open way,
12:19:54 4 is being referred to as a number. That would be a very
12:19:58 5 serious, could be a serious problem, couldn't it?---Yeah, I
12:20:02 6 think it could. And I think that probably illustrates the
12:20:05 7 error more so than anything. You know, as you say, it's a
12:20:12 8 bit similar to redacting her own name at the plea.
9
12:20:16 10 Yeah?---It doesn't help anyone.
11
12:20:18 12 No, but what you're saying is you're dealing with her as a
12:20:21 13 barrister in the open, aside from the concern you have
12:20:26 14 about her, you say, risk if it's found that she's involved
12:20:35 15 in advising this fellow?---Yes.
16
12:20:39 17 There's no reason to refer to her by the number 3838, is
12:20:43 18 there?---No.
19
12:20:44 20 And I suggest the reason that you refer to her as 3838 is
12:20:48 21 because you are not dealing with her as a barrister, but
12:20:51 22 you were dealing with her as a human source or as an agent
12:20:53 23 of Victoria Police, I suggest that to you quite
12:20:58 24 clearly?---No.
25
12:20:59 26 No?---I remember that meeting. I was quite happy at that
12:21:02 27 point to go ahead and prosecute [REDACTED], in fact that was
12:21:07 28 my preference.
29
12:21:08 30 That may well be the case. That wasn't the question I
12:21:11 31 asked you?---I'm sorry.
32
12:21:12 33 I ask you to listen to the question?---Yep.
34
12:21:14 35 You refer to her as 3838 because you're referring to her as
12:21:18 36 a human source and you're about to task her as a human
12:21:21 37 source, I suggest to you?---No.
38
12:21:24 39 Right, you disagree with that?---Yep.
40
12:21:26 41 He had, that is [REDACTED] had a solicitor, an instructing
12:21:31 42 solicitor, correct?---Well I'm not sure whether Jim was
12:21:35 43 still involved at that stage, Jim Valos, but no doubt there
44 was a solicitor involved.
45
12:21:39 46 You had no reason to believe - listen, Mr Bateson, you had
12:21:44 47 no reason to believe that Jim Valos was not his instructing

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12:21:49 1 solicitor?---Probably not.
2
12:21:50 3 No. And indeed previously, on a number of occasions
12:21:53 4 previously you'd been out to speak to [REDACTED]?---Yes.
5
12:21:57 6 He was telling you that he trusted Jim and you were going
12:21:59 7 to go and speak to Jim and Jim was going to come down and
12:22:02 8 see him, correct?---Yes.
9
12:22:04 10 There is no reason at all for your answer that you've just
12:22:08 11 given on your oath to believe that he was not the
12:22:11 12 instructing solicitor on the record?---Well the only thing
12:22:14 13 I'd say about that is that Ms Gobbo was the one in contact
12:22:18 14 with us, so she was the one contacting us, I think by this
12:22:23 15 stage about [REDACTED] and indeed his preparation, or
12:22:30 16 perhaps - - -
17
12:22:31 18 Mr Bateson, that wasn't the question I asked?---No, but I
12:22:34 19 think it answers it though.
20
12:22:35 21 No, no, you listen to the question. There is no reason for
12:22:38 22 you to believe that Jim Valos was not the instructing
12:22:42 23 solicitor. I didn't ask you about whether you thought that
12:22:46 24 Gobbo was continuing to [REDACTED]. Do you follow what I'm
12:22:49 25 saying?---I do and - - -
26
12:22:52 27 Right. So why don't you answer the question?---Okay, I'll
28 try to.
29
12:22:54 30 Did you have any reason at all to believe that Jim Valos
12:22:56 31 was not the instructing solicitor?---As I said, the reason
12:22:59 32 why is because Nicola Gobbo was the one contacting us. Jim
12:23:05 33 wasn't contacting us.
34
12:23:06 35 She's a barrister. She's a barrister. You say that - you
12:23:09 36 know the difference between a barrister and a
12:23:12 37 solicitor?---I'm trying to answer the question as best I
12:23:14 38 can.
39
12:23:15 40 Yeah?---That's why I'm not sure whether Jim Valos is still
12:23:20 41 involved because his barrister is contacting us.
42
12:23:24 43 On occasions barristers will speak to police, on occasions
12:23:27 44 solicitors will speak to police. The fact that you speak
12:23:32 45 to a barrister, you say, doesn't mean that she's not
12:23:34 46 instructing by a solicitor, do you agree with that or
12:23:38 47 not?---All I'm saying is - - -

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1
12:23:40 2 Do you agree with that or not?---Can you put it again, I'm
12:23:43 3 not sure what you - - -
12:23:44 4
12:23:46 5 The fact that you have spoken to a barrister doesn't mean
12:23:50 6 that the solicitor isn't still on the record, do you accept
12:23:51 7 that proposition?---I do accept that.
8
12:23:54 9 Right?---But what I said to you I wasn't sure whether Jim
12:23:55 10 Valos was still engaged and the reason why I wasn't sure is
12:23:59 11 because his barrister was the one contacting us.
12
12:24:02 13 You had some documents to supply to 3838, correct?---Some
12:24:07 14 transcripts of some conversations.
15
12:24:09 16 Som transcripts to supply to 3838, correct?---Correct.
17
12:24:13 18 And if there was a solicitor on the record ordinarily what
12:24:20 19 you would do is to say to them, "We've got some material we
12:24:24 20 want to serve upon you as the solicitor for this client of
12:24:27 21 yours, here they are, these are the records, the documents
12:24:30 22 that we want to serve on you", that's what the normal
12:24:34 23 course would be, would it not?---In the process of a court
12:24:37 24 case, yes.
25
12:24:39 26 Yeah?---But this wasn't that.
27
12:24:40 28 No?---What we were doing was arming, as I believed it
12:24:44 29 anyway, when I was sitting down with Jim O'Brien and
12:24:47 30 Mr Ryan, even though I may not have agreed.
31
12:24:51 32 Yeah?---What I believe was happening was that we were
12:24:54 33 giving the person, who was his legal representative, who
12:24:57 34 was in contact with him and in contact with us, the
12:24:59 35 information that she required to give him proper
12:25:02 36 instructions.
37
12:25:03 38 Yeah. You weren't giving them to his legal
12:25:06 39 representatives, you gave them to her handlers?---Well I
12:25:09 40 didn't, I think Jim O'Brien did.
41
12:25:13 42 But you knew that that was being done, didn't you?---I may
12:25:18 43 have. I think Jim had a meeting with them straight
12:25:21 44 afterwards.
45
12:25:22 46 Mr Bateson, you knew full well that these documents were
12:25:26 47 being given to Gobbo via her handlers?---I think so. I

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12:25:32 1 think that's what happened.
2
12:25:33 3 You're equivocating, you're saying "I may have". The fact
12:25:39 4 is you did know that. You've thought about this, haven't
12:25:41 5 you?---I haven't got that in my notes.
6
12:25:44 7 No?---But what I do remember is this was Jim's idea and Jim
12:25:48 8 supplied the transcripts to the people that were shortly
12:25:54 9 going to meet Ms Gobbo.
10
12:25:57 11 You say you disagreed with this, did you?---Well I didn't,
12:26:01 12 I didn't want - you know, I thought to myself then I'd
12:26:05 13 rather see him in the dock than in the witness box.
14
12:26:09 15 That's a different issue. The point is in this case the
12:26:13 16 idea is to give 3838, via her handlers, I think Mr Stanton,
12:26:19 17 a copy of these notes so she can go down and speak to
12:26:24 18 [REDACTED] with a view to getting him on board and rolling
12:26:27 19 and assisting the Crown or assisting the police to put Carl
12:26:33 20 Williams away. That was the idea, wasn't it?---It wasn't
12:26:36 21 the idea that was put forward. It was the idea that she
12:26:39 22 was going to get those things as his barrister to provide
12:26:43 23 him with proper instruction.
24
12:26:44 25 She was - - - ?---That was the idea in my mind.
26
12:26:47 27 I suggest that she wasn't given these documents, she was
12:26:50 28 allowed to read them?---Yeah, she would have been allowed
12:26:53 29 to read them, yeah.
30
12:26:54 31 She wasn't given them as his barrister, these documents
12:26:57 32 were given to her handlers, who then allowed her to read
12:27:01 33 them in their presence, not give them to her, to arm her
12:27:05 34 with information and then go and speak to [REDACTED] to get
12:27:09 35 him on board?---Yeah, I wouldn't have liked her to be given
12:27:12 36 them, so that seems consistent.
37
12:27:14 38 Yeah, yeah. As far as you knew that was going to occur,
12:27:28 39 that she was going to go down and speak to him and get him
12:27:33 40 to come on board, correct?---Well, I - I agree that they
12:27:40 41 were given to her so she could have the information to get,
12:27:45 42 instruct and get instructions from him.
43
12:27:48 44 Yeah?---I'm not sure that there's anything more than that.
45
12:27:51 46 Yeah. Now at that stage he hadn't agreed to plead, he
12:27:55 47 hadn't entered a plea of guilty, had he?---No.

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1
12:27:59 2 No. He'd spoken to you on tape, or at least as far as he
12:28:04 3 was concerned in circumstances where nothing he said would
12:28:06 4 be admissible against him, and indeed you made that plain,
12:28:09 5 correct?---Yes.
6
12:28:10 7 He wanted to know what to do, he wanted to speak to an
12:28:13 8 independent solicitor, correct?---I'm not sure. Did he say
12:28:20 9 the word independent?
10
12:28:22 11 He wanted to speak to a solicitor who I think you might be
12:28:26 12 able to impute or imply the word independent because one
12:28:31 13 would expect if they're speaking to a solicitor, they're
12:28:37 14 speaking to someone who's not an agent of Victoria Police,
12:28:39 15 wouldn't they be entitled to expect that?---I think he
12:28:42 16 wanted someone he trusted. I think it was us that provided
12:28:44 17 the advice that he'd be perhaps better off with someone
12:28:47 18 independent.
19
12:28:48 20 Yeah, someone who was acting in his interests and not in
12:28:51 21 the interests of Victoria Police, that's what he would
12:28:53 22 want, isn't it?---I would think so, yes.
23
12:28:56 24 And that's what you would expect, if you happened to be in
12:28:59 25 a little bit of strife, you would expect that someone would
12:29:02 26 be looking after your interests and not after the or person
12:29:06 27 who were persecuting or prosecuting you?---Yes.
28
12:29:09 29 Do you agree with that?---Yes.
30
12:29:10 31 You knew full well that Gobbo was in your team?---I knew
12:29:14 32 full well that Ms Gobbo had conducted herself in such a
12:29:22 33 fashion that she advised [REDACTED], she didn't leak that to
12:29:26 34 Carl Williams or others. I think she acted completely in
12:29:29 35 the best interests of [REDACTED] and I believe she'd do the
12:29:33 36 same for [REDACTED]. And in fact I think she did.
37
12:29:36 38 [REDACTED] had made a statement implicating [REDACTED] in
12:29:40 39 about the most serious crime that is known to the law,
12:29:45 40 murder?---Yes.
41
12:29:46 42 Right. So you say that she had acted appropriately for
12:29:50 43 [REDACTED], you say, his best interests?---Yes.
44
12:29:55 45 You had just heard Justice King talking about conflict of
12:30:02 46 interest and whether or not a person can act, you heard all
12:30:13 47 of those sorts of things and Mr Horgan reading out a

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12:30:14 1 letter, you'd just been at that - you'd heard that, hadn't
12:30:16 2 you?--What's that, sorry?
3
12:30:20 4 You were aware of that?--Aware of what, sorry?
5
12:30:23 6 You were aware of those issues that had been raised around
12:30:26 7 conflict?---I was aware that [REDACTED] had sent a letter to
12:30:33 8 the court saying that he didn't want Solicitor 2 involved
12:30:35 9 in the trial.
10
12:30:36 11 Yeah?---And I heard Justice King say that she didn't think
12:30:42 12 was - - -
13
12:30:44 14 You heard her say to Solicitor 2 that she simply couldn't
12:30:47 15 act for [REDACTED] or Carl Williams because she'd been - she
12:30:54 16 couldn't be involved in that trial?---In the trial, yes.
17
12:30:56 18 Couldn't be involved?---In the trial.
19
12:30:58 20 You're aware of those issues; aren't you?---I am.
21
12:31:02 22 Yet what you want to do is arm Ms Gobbo, who's a police
12:31:08 23 informer - you're calling her 3838 - with documents, with
12:31:14 24 records which you had gathered without [REDACTED] knowing
12:31:16 25 them, because they were done without him knowing that you
12:31:19 26 [REDACTED], weren't they?---They were.
27
12:31:22 28 You wanted to arm her with that information without her
12:31:27 29 telling him that that's what the police had?---I'm not sure
12:31:32 30 that that was the instruction.
31
12:31:34 32 Yeah. And you wanted her to do this behind the
12:31:38 33 solicitor?---I don't think that was the case either.
34
12:31:46 35 Do you know that?---Well certainly from my point of view,
12:31:48 36 as I said, she was the one contacting us, she was the one
12:31:53 37 that appeared to be his active legal representative, so she
12:31:56 38 was the most appropriate.
39
12:31:57 40 Mr Bateson, if you were fair dinkum about this you'd say to
12:32:01 41 either her or Jim Valos, "We've got some notes, this is
12:32:06 42 what this fellow is saying. You can have these notes, you
12:32:11 43 can down and show him, you can speak to him", and it would
12:32:15 44 be done aboveboard. But what occurred here was that these
12:32:18 45 notes were provided behind everyone's back to the SDU, the
12:32:23 46 secret SDU to be provided to a human source to go down and
12:32:28 47 speak to this man, when he was crying out for some

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12:32:30 1 independent representation. I've taken you to the
12:32:33 2 references before. Correct? Do you agree with that?---No,
12:32:37 3 I don't. I think I said he was looking for representation
12:32:40 4 he trusted. It was us who suggested that he get
12:32:43 5 independent representation.
6
12:32:44 7 You did say that, you've said that in your
12:32:47 8 statement?---Sorry. And I do disagree that they were given
12:32:51 9 to her in her role as a human source. From my belief
12:32:55 10 sitting in that meeting, and maybe Jim O'Brien or Gavan
12:32:59 11 Ryan - you must remember I'm a Detective Sergeant, they're
12:33:02 12 two Inspectors - they may have had a different belief.
13
12:33:05 14 Right?---My belief was that they were giving those
12:33:09 15 transcripts so she could receive proper instructions from
12:33:13 16 her client.
17
12:33:14 18 All right. When you write your note about calling her
12:33:18 19 3838, which a prison officer who knows his craft would
12:33:22 20 write down 3838 because it's an informer, you say that's an
12:33:25 21 error, correct?---I would say that's just the way she was
12:33:28 22 referred to in that conversation that we had with Jim
12:33:31 23 O'Brien and Gavan Ryan and we simply, I simply just
12:33:36 24 recorded as they spoke.
25
12:33:40 26 All right. Can we put up the ICRs at p.257 and 258. If we
12:33:59 27 see at the bottom of the page here, "Re Supreme Court Judge
12:34:08 28 King asked Ms Gobbo why seeing [REDACTED] if not acting.
12:34:15 29 Told seeing him re other matters. Judge querying re
12:34:19 30 conflict with [REDACTED] Judge asked if Ms Gobbo knew
12:34:23 31 about the letter sent by Solicitor 2 and she answered no".
12:34:29 32 You know what that letter's about, there was a suggestion
12:34:32 33 subsequently at a meeting, which I'm going to come to in
12:34:36 34 due course, about a letter which had been sent by Solicitor
12:34:40 35 2 where it was being sought to be arranged, a meeting
12:34:43 36 between Solicitor 2, Carl Williams, Ms Gobbo and [REDACTED]
12:34:52 37 do you understand that?---Yes.
38
12:34:55 39 You're aware of that?---Yes.
40
12:34:56 41 This is the so-called conflict hearing?---Referred to in
12:35:02 42 the statement.
43
12:35:03 44 You weren't there but you were told about that?---Yes.
12:35:07 45
12:35:07 46 Is that right?---Yes.
47

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12:35:11 1 Mr Heliotis appeared for Solicitor 2 and said that the
12:35:14 2 reason why Solicitor 2 was going to do the mention meeting
12:35:21 3 was to quell friction caused by Purana and OPP and
12:35:26 4 Mr Horgan was incensed by this and Solicitor 2 had
12:35:33 5 previously given the court an undertaking not to see Carl
12:35:37 6 Williams and Ms Gobbo believed that her reputation with the
12:35:41 7 court, and probably with the OPP, was intact, right?
12:35:48 8 Outside court, within earshot of unknown others, Mr Horgan
12:35:52 9 asked Ms Gobbo, "When is [REDACTED] going to plead?" And there was
12:35:57 10 an unknown senior woman from [REDACTED] Prison there also and
12:36:00 11 she asked her if she could still visit [REDACTED] and this
12:36:05 12 woman replied, "We run the prison, not the police", and
12:36:10 13 it's not known what that was about. If we keep scrolling.
12:36:14 14 Ms Gobbo wants Mr Bateson to tell Ms Anscombe that Ms Gobbo
12:36:19 15 knows about [REDACTED] and that this is okay. There's a
12:36:25 16 telephone call between you and the handler and your opinion
12:36:30 17 was that Ms Anscombe may well talk about Ms Gobbo "about
12:36:36 18 today's matter", correct?---Looking at that note I think
12:36:42 19 that's more a conversation, because it says, "Bateson not
12:36:47 20 to talk to" - "Horgan likewise is not totally aware of HS
12:36:51 21 situation", so I think looking back at this, no. What
12:36:57 22 they're talking to me about does - "Can we tell the OPP
12:37:03 23 that she's a human source? Does Mr Horgan know?",
12:37:07 24 potentially.
25
12:37:11 26 "And Mr Horgan likewise, as he not totally aware of
12:37:14 27 Ms Gobbo's situation regarding this"?---Yeah.
28
12:37:18 29 That is the human source situation?---I think.
30
12:37:22 31 So he's not aware that Ms Gobbo is a human source?---I've
12:37:25 32 never had any understanding that Mr Horgan knew that.
33
12:37:30 34 You've never told Mr Horgan, I take it, that Ms Gobbo was a
12:37:35 35 human source?---I've never told him, no.
36
12:37:40 37 And you're not to talk to the OPP further regarding this
12:37:44 38 incident, is that something that was told to you?---It
12:37:52 39 appears that they've made that note.
40
12:37:56 41 Yeah. Do you agree with that or not?---I don't have a
12:38:00 42 memory of it but, you know, I think these guys were pretty
12:38:04 43 good, so if that's - - -
44
12:38:06 45 Good at what?---Well I would have thought that they were
12:38:10 46 pretty good at these sorts of notes. I haven't got a note
12:38:13 47 of it so I would have thought if they've written it that

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12:38:16 1 way it's possibly true or probably true.
2
12:38:19 3 Horgan had already phoned, one assumes phoned
12:38:24 4 Ms Gobbo?---Or me.
5
12:38:25 6 Or you, yeah?---Or me.
7
12:38:27 8 And what had been discussed?---I don't know, it might have
12:38:32 9 been something about the plea, that conflict hearing, I'm
12:38:38 10 not sure. It's a bit confusing for me, that note, I'm not
12:38:43 11 really sure what that was. I don't recall it.
12
12:38:45 13 Can I suggest that what would have been foremost in
12:38:48 14 everyone's minds, including yours, perhaps also
12:38:52 15 Mr Horgan's, is Ms Gobbo's conflicted position. That would
12:38:57 16 have been quite apparent, wouldn't it?---I think I say that
12:39:01 17 in the supplementary statement, but I think what sort of
12:39:03 18 falls out of that conflict hearing as well is there seems
12:39:08 19 to be some confusion on when, that she couldn't act for him
12:39:17 20 in a trial but she could act for him on a plea.
21
12:39:23 22 That's all *ex post facto* sort of justification having in
12:39:26 23 the last couple of days prepared the statement. Fresh out
12:39:32 24 of this hearing you've been told about, or subsequent to
12:39:35 25 this hearing you've been aware of the judge being quite
12:39:39 26 strident about conflict situations, I suggest to you?---But
12:39:42 27 at the end of that transcript on that day, correct me if
12:39:48 28 I'm wrong, there seems to be something that she talks about
12:39:52 29 on the conflict hearing. It's in my statement here. She
12:40:01 30 says, "I can't be in the trial because I've acted for one
12:40:04 31 of the witnesses."
32
12:40:06 33 Yeah?---This is Ms Gobbo.
34
12:40:07 35 Yeah?---"You're certainly not intending to have a joint
12:40:11 36 conference? No, not in relation to the trial."
37
12:40:14 38 Yeah. So you took that to mean in circumstances where this
12:40:17 39 man hasn't entered a plea, at the moment he's being
12:40:20 40 prosecuted for murder, she was then entitled to go down and
12:40:25 41 have a frank discussion with him as an independent legal
12:40:29 42 advisor, concerning, for example, the strength of the case
12:40:32 43 against him, the sort of issues that you would need to
12:40:36 44 discuss if you were acting for the person in a trial
12:40:38 45 proceeding, have a discussion about those matters and
12:40:40 46 advise him as to the strengths and weaknesses of the case
12:40:43 47 and whether he should plead? Do you think that that's what

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12:40:45 1 Justice King allowed for, or those comments made by Justice
12:40:50 2 King allowed for?---Well I think that's how Ms Gobbo
12:40:54 3 interpreted them.
4

12:40:55 5 Yes?---And I'm not sure that I turned my mind to them at
12:41:00 6 the time, but I would have thought if there was an issue
12:41:08 7 Mr Horgan would have raised it.
8

12:41:10 9 Did you ask Mr Horgan, did you say to Mr Horgan, "Look,
12:41:14 10 Justice King, I gather, I wasn't there, but I was at a
12:41:17 11 hearing a couple of days ago where the issue of conflict
12:41:20 12 was brought up with respect to Solicitor 2 and the judge
12:41:25 13 seemed to be quite strong on conflicts. I gather there's
12:41:28 14 been another hearing today where Justice King has said that
12:41:34 15 Gobbo can't represent [REDACTED] in a trial. We've given
12:41:41 16 Gobbo [REDACTED] for her to go down and speak to [REDACTED]
12:41:45 17 to get him to come on board, is that okay?" Did you raise
12:41:49 18 that with Mr Horgan?---Oh well, Mr Horgan knew that
12:41:54 19 Ms Gobbo was involved and representing, I didn't need to
12:41:58 20 tell him.
21

12:41:59 22 Yeah. So was there a discussion about conflict? We know
12:42:04 23 that Mr Horgan knew up until that time that he'd been, that
12:42:09 24 she'd been representing him. Was there a discussion, given
12:42:11 25 what had occurred on that day and the previous couple of
12:42:14 26 days, about the situation that now is quite apparent, that
12:42:17 27 there is a real problem with respect to conflict and the
12:42:20 28 court is concerned about it? Was there a discussion about
12:42:23 29 conflict?---What I see from - there's a couple of things
12:42:26 30 there. One I see from the transcript is the judge is very
12:42:29 31 concerned and indeed Ms Gobbo says she can't act at trial.
32

12:42:33 33 Yeah?---So that's what I know from the court hearing.
34

12:42:36 35 Yeah, and there's to be a trial down the track. At the
12:42:40 36 moment there's going to be a trial and [REDACTED] the
12:42:45 37 subject of that?---Well - - -
38

12:42:48 39 A presentment's been filed against him?---What I thought at
12:42:52 40 that time, and re-reading these transcripts, is that
12:42:55 41 Ms Gobbo would have excused herself had it gone into a
12:42:58 42 contested trial.
43

12:42:59 44 Yeah, but you knew there was never going to be a contested
12:43:03 45 trial because you had her going down there to get him on
12:43:07 46 board?---I always knew he was going to come on board at
12:43:11 47 some point.

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1
12:43:11 2 And you wanted her to help you?---I wanted him to get the
12:43:15 3 instructions that he needed that he was - you know, you
12:43:17 4 just saw [REDACTED] get [REDACTED] years.
5
12:43:25 6 [REDACTED] - well [REDACTED], yeah?---[REDACTED] get [REDACTED] years. The idea of
12:43:30 7 them having a joint conference was to quell the fact that
12:43:35 8 Carl Williams had offered to plead, so right now he's
12:43:41 9 sitting there going, "Well, I could be the only one in the
12:43:44 10 dock."
11
12:43:45 12 All right. We could go on about this and we'll be here all
12:43:47 13 day. What I did ask you about was did you have a
12:43:50 14 discussion with Mr Horgan about conflict and what had
12:43:53 15 occurred in court? Did you have that discussion with
12:43:56 16 him?---I don't recall and it would surprise me because he
12:43:59 17 knew what I knew.
18
12:44:01 19 Okay. Did you tell Mr Horgan that you had armed Ms Gobbo
12:44:04 20 with transcripts and they were going to be provided to her
12:44:09 21 to go down and speak to [REDACTED], did you tell him
12:44:13 22 that?---I don't know.
23
12:44:15 24 Do you think you would have told him that?---I don't see
12:44:19 25 why I wouldn't have told him that.
26
12:44:21 27 So you believe that you would have told him that you had
12:44:24 28 given her transcripts of conversation that had been taken,
12:44:28 29 these conversations?---Perhaps Gavan and I but I don't have
12:44:32 30 a note of it, but I can't see why we wouldn't.
31
12:44:35 32 And did you tell him that you'd given them, and this is
12:44:39 33 pretty obvious, I suspect, did you tell him that you'd
12:44:42 34 given the transcripts to the SDU who were her
12:44:45 35 handlers?---No, and I wouldn't have done that.
36
12:44:52 37 You say you wouldn't have done that because it would have
12:44:55 38 exposed her an agent of Victoria Police?---Well it's not
12:44:57 39 for me to be disclosing her status in that regard.
40
12:45:07 41 Did you think you had any obligation, when [REDACTED] was
12:45:11 42 asking you for someone who he could be advised by, to tell
12:45:16 43 him that she was an agent of Victoria Police?---No, I did
12:45:20 44 not consider doing that.
45
12:45:22 46 Did you think with the benefit of hindsight that that's
12:45:26 47 something that he should have been aware of?---Once again

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12:45:30 1 it gets down to that balancing.
2
12:45:33 3 All right, you're going to give us an answer about the
12:45:38 4 balancing exercise.
12:45:39 5
6 MS ENBOM: Can I object at this point. I don't at all
12:45:46 7 object to the shouty style of cross-examination. But I do
12:45:49 8 object to the unfairness of the cross-examiner interrupting
12:45:51 9 the answer. He's entitled to explain answer and there's
12:45:54 10 constant interruptions, and I've let many, many go.
11
12:45:56 12 COMMISSIONER: Mr Winneke, if you could just make sure you
12:45:59 13 allow the witness to answer the question.
14
12:46:03 15 MR WINNEKE: I will, Commissioner, but I do want to finish
12:46:05 16 this cross-examination and we're getting the same answer
12:46:07 17 again and again. If he answered the questions then we
12:46:10 18 wouldn't have a problem.
19
12:46:11 20 COMMISSIONER: All right. Mr Bateson, if you could listen
12:46:13 21 to the question as asked and try to give a responsive
12:46:17 22 answer and Mr Winneke will allow you to finish your answer
12:46:21 23 before he asks the next question, thank you.
24
12:46:25 25 MR WINNEKE: With the benefit of hindsight do you believe
12:46:28 26 that this person should have had the benefit of independent
12:46:30 27 legal representation?---I know you want me to answer yes or
12:46:35 28 no to a simple question. I don't think I can. I said at
12:46:39 29 the time that I think he'd be better off with independent
12:46:43 30 legal representation. But ultimately the decision was made
12:46:50 31 back then that we accepted his wishes for Ms Gobbo to act
12:46:56 32 for him.
33
12:46:59 34 You are comfortable with a person who is facing life
12:47:01 35 imprisonment, potentially, to be represented by a person
12:47:07 36 who has shown herself to be an agent of Victoria
12:47:14 37 Police?---I thought she acted very reasonably in [REDACTED]
12:47:19 38 I was happy, yes.
39
12:47:21 40 You were happy with the outcome, correct?---No, I was happy
12:47:23 41 with, I thought she represented him and his best interests
12:47:26 42 and I think that clearly shows. The man got [REDACTED] years for a
12:47:31 43 series of pretty horrific murders, so I think the outcome
12:47:36 44 for him illustrates the fact that she represented his best
12:47:43 45 interests. Just remember the overwhelming evidence we had
12:47:48 46 against [REDACTED]. He got a great deal and I have no doubt
12:47:51 47 her interests were well represented.

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1
12:47:54 2 Mr Bateson, I want to finish this. Was I asking you about
12:47:59 3 [REDACTED]?---I don't think I can answer
12:48:01 4 without explaining.
5
12:48:04 6 Right, okay. What then occurs on 20 April - now this is
12:48:40 7 leading into this discussion that we've just had. I want
12:48:42 8 to take you to your notes. You'd been doing something
12:48:46 9 else. In your notes you say there were inquiries regarding
12:48:53 10 the court hearing, and this is at VPL.0005.0058.0346. Can
12:49:04 11 you put this up, please. Just focus on the highlighted
12:49:31 12 entry at the bottom, please. This is the file note which
12:49:38 13 immediately precedes your discussions that we've just been
12:49:42 14 asking you about. You return to the office and there are
12:49:46 15 inquiries involving the court hearing involving Solicitor 2
12:49:49 16 and Nicola Gobbo regarding conflict of interest, do you see
12:49:53 17 that?---Yes.
18
12:49:55 19 That's the discussion you're told about what had occurred
12:49:58 20 in court and the fact that there was this issue raised
12:50:03 21 about conflict of interest effecting both Nicola Gobbo and
12:50:08 22 Solicitor 2, correct?---Correct.
23
12:50:11 24 And you make that note in your diary about that at
12:50:19 25 16:45?---Yes.
26
12:50:19 27 The very next note, the very next note immediately after
12:50:23 28 that, the line underneath it, you've spoken to 3838
12:50:29 29 regarding [REDACTED] possibly pleading guilty and giving
12:50:32 30 evidence, do you see that?---Yes.
31
12:50:34 32 Can I suggest to you that you've been quite deliberate
12:50:37 33 about that, you've referred to Ms Gobbo as a barrister in
12:50:40 34 the immediately preceding entry, correct?---I do, yes.
12:50:44 35
12:50:46 36 Is that right?---Yes, I do.
37
12:50:47 38 And in the next entry immediately after that, when we're
12:50:50 39 talking about Ms Gobbo as a person who is going to assist
12:50:54 40 Victoria Police, she's referred to as 3838?---Yeah, I saw
12:50:59 41 this note prior to giving evidence, but what I think's
12:51:05 42 happened here this day is I've got back from doing other
12:51:08 43 duties on the 21st. I believe Jim O'Brien or someone else
12:51:12 44 has asked me to make inquiries at 16:45 and I make those
12:51:19 45 inquiries I think with the OPP. And of course the person
12:51:26 46 I'm talking to is referring to them by those names, and
12:51:29 47 then I've obviously had another conversation with Jim

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12:51:31 1 O'Brien who refers to her as 3838 and I've simply used that
12:51:38 2 some hour and a half, hour and 45 minutes later.
3
12:51:41 4 That's your serious explanation, is it? You'd spoken to
12:51:44 5 Mr O'Brien in between?---That seems to be the case, yes.
6
12:51:48 7 Where's the note about the discussion with
12:51:51 8 Mr O'Brien?---It's not there but as you can see I've come
12:51:53 9 back from a course.
10
12:51:55 11 Yes?---And obviously that's what I've been told.
12
12:51:59 13 You've got an actual recollection of that, do you?---I
12:52:02 14 believe so. I'm not sure whether it was Jim, but obviously
12:52:05 15 someone's told me to make some inquiries and I've done
12:52:10 16 that, and the fact that I've referred to her as 3838 I
12:52:13 17 would say it probably is Jim O'Brien because that's how he
12:52:18 18 referred to her.
19
12:52:20 20 What possible reason would you need to describe her as
12:52:24 21 3838? I mean the letter's B0 of Gobbo are immediately
12:52:30 22 above the 38. It beggars belief that that's the
12:52:33 23 explanation?---Well look, I guess I can only repeat it.
12:52:37 24 When you're making your notes and you're doing it at a time
12:52:41 25 that these things are happening - - -
26
12:52:43 27 Yeah?---- - - they just come with whatever you're actually
12:52:47 28 thinking at that time.
29
12:52:49 30 There's another explanation, and can I suggest this to you:
12:52:52 31 Ms Gobbo, what she does in court in the open in public she
12:52:58 32 does as Ms Gobbo the barrister. What she does behind the
12:53:02 33 scenes when it comes to assisting Victoria Police as a
12:53:05 34 human source, as an informer, she does it as 3838. You
12:53:13 35 disagree with that proposition I take it?---Yes.
36
12:53:16 37 What you also know full well is if you write down 3838,
12:53:21 38 that note will not see the light of day because a claim of
12:53:26 39 public interest immunity will be made?---Well, I would have
12:53:30 40 made the claim as well as about her name likewise.
41
12:53:35 42 Well you couldn't because she appeared in court. Everyone
12:53:39 43 knew she was there in court?---No, but if I had have seen
12:53:44 44 that note there.
45
12:53:45 46 Yeah?---Say I had have written Nicola Gobbo instead of
12:53:50 47 3838.

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1
12:53:50 2 Yeah?---Then I would have made a claim of public interest
12:53:54 3 immunity for that line in regards to her safety, as I do
12:54:00 4 with [REDACTED]
5
12:54:01 6 Ms Gobbo was appearing for [REDACTED] in court in the open,
12:54:09 7 correct?---Yes, but this is the bit that would have caused
12:54:12 8 her trouble.
9
12:54:18 10 You say that you could refer - it causes her trouble if
12:54:24 11 it's found out that she's involved in the plea of guilty,
12:54:32 12 right?---And him giving evidence.
13
12:54:34 14 Yeah?---That's why I say even if I had have used her name
12:54:39 15 there I would have made the same claim.
16
12:54:42 17 Which doesn't explain why you refer to her as 3838. You
12:54:49 18 would have to justify why an informer, why she is an
12:54:52 19 informer. If what you're saying is correct, and your
12:54:57 20 concern is not about Ms Gobbo as an informer but it's as a
12:55:01 21 barrister, you would simply write Ms Gobbo and then down
12:55:05 22 the track you would do exactly what you did in front of
12:55:11 23 Chief Magistrate Gray and say, "This has to be redacted
12:55:15 24 because there's a concern about her safety"?---But
12:55:18 25 likewise - - -
26
12:55:19 27 Do you follow what I'm saying?---I do, but likewise I'd
12:55:23 28 have to do whatever I use.
29
12:55:25 30 Did you ever make a claim for public interest immunity in
12:55:30 31 relation to that particular note?---I'm not sure that we
12:55:33 32 got that far.
33
12:55:34 34 Didn't you say to the Royal Commission yesterday with
12:55:36 35 respect to transcripts of conversations that you had with
12:55:38 36 [REDACTED] you and Mr O'Brien had with [REDACTED], and
12:55:41 37 subsequently, didn't you say they were redacted to provide
12:55:45 38 to people?---The transcripts?
39
12:55:47 40 Yeah?---Yep.
41
12:55:48 42 Did you get that far with respect to those transcripts?---I
12:55:53 43 don't think so.
44
12:55:54 45 How come they were redacted?---I'm not sure that I follow.
12:56:00 46 We always make redactions and then the redactions are
12:56:03 47 challenged.

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1
12:56:04 2 Right. Did you not hand over those notes, the transcripts
12:56:09 3 of conversations that you had with [REDACTED]? Were they
12:56:14 4 handed over to Carl Williams, for example?---I think they
12:56:20 5 were.
6
12:56:20 7 They were handed over to Carl Williams because you said
12:56:22 8 Carl Williams found out because there was a gender
12:56:28 9 reference?---Gender reference.
10
12:56:31 11 What about the notes?---I'm not sure that they were. They
12:56:35 12 might have been.
13
12:56:36 14 So did you make a public interest immunity claim with
12:56:39 15 respect to those notes?---I don't remember doing that. I
12:56:41 16 know we had a lot of talk with the Justice King about
12:56:46 17 public interest immunity, but I think the majority was
12:56:49 18 around statements, some about information reports.
19
12:56:52 20 Yeah. Had you been - - - ?---I can't recall - - -
21
12:56:56 22 - - - requested to provide notes?---I would imagine so.
23
12:56:59 24 And did you provide notes?---I think so.
25
12:57:01 26 Did you provide those notes?---You know, we're talking 14
12:57:04 27 years ago.
28
12:57:05 29 You wouldn't have provided those notes, would you?---I
12:57:08 30 don't know. What else have we got on that day?
31
12:57:11 32 I'm asking if you made a claim for public interest immunity
12:57:17 33 with respect to those notes? If you handed the notes over
12:57:21 34 you would have to have made a claim for public interest
12:57:25 35 immunity otherwise everyone would have known who 3838 was
12:57:27 36 way back?---Yes, but what I'm saying is that you make
12:57:30 37 redactions. You hand the notes over. They need to be
12:57:34 38 challenged before you make a claim.
39
12:57:35 40 Do you know about the process whereby claims are made? You
12:57:44 41 do, you know about the process?---Yeah.
42
12:57:46 43 Right. Did you ever speak to any Victorian Government
12:57:52 44 Solicitor people about these notes?---Well I don't know.
12:57:56 45 As I say, this is a long time ago. We were in and out. We
12:57:59 46 had a lot of interaction with the VGS0 about different
12:58:02 47 issues.

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1
12:58:03 2 Yeah?---I'd hate to say categorically but, you know, I'm
12:58:08 3 thinking we never got to that stage with this.
4
12:58:16 5 When you did prepare your notes and you put the black
12:58:22 6 through it, did you distinguish between the black being for
12:58:26 7 relevance and those bits for PII?---No, I didn't.
8
12:58:35 9 Right. You say that the process is someone gets the notes
12:58:41 10 and then they challenge it?---Generally that's correct.
11
12:58:45 12 How do they know whether to challenge it for public
12:58:48 13 interest immunity or challenge it for relevance?---Well in
12:58:51 14 my experience during those days they just challenged it and
12:58:54 15 it was dealt with by the magistrate or judge.
16
12:58:58 17 Yeah. What, by you going behind the scenes with the
12:59:01 18 magistrate and photocopying some of the pages in your
12:59:04 19 notebook and giving him the redacted pages and the
12:59:08 20 unredacted?---And on occasion giving evidence.
21
12:59:10 22 On occasions giving evidence?---Yep.
23
12:59:12 24 One hopes that you provide all of the relevant notes and
12:59:15 25 not just the ones that you want to provide,
12:59:28 26 correct?---Sorry?
27
12:59:31 28 The idea is to provide all of the relevant notes so that
12:59:33 29 people can, whoever has to make a decision, can see what's
12:59:37 30 being claimed and why the public interest immunity claim's
12:59:41 31 being made?---Yes.
32
12:59:42 33 Right. Do you recall ever having any discussion with any
12:59:45 34 person, whether it be at the VGS0, the OPP, a lawyer within
12:59:52 35 Victoria Police, Purana, about whether or not notes could
12:59:57 36 or should be provided which concern Nicola Gobbo in her
13:00:04 37 role acting for [REDACTED]?---No, I don't.
38
13:00:13 39 Do you believe that you did not have any discussion along
13:00:16 40 those lines?---No, I just don't have a memory of it. I
13:00:20 41 think the committal sticks out because I was cross-examined
13:00:24 42 by Mr Lovitt and Mr Heliotis, and I've got some notes on
13:00:33 43 it, but I don't recall it. As I think I've said before,
13:00:37 44 you know, I was in and out of the witness box quite
13:00:40 45 regularly in those days.
46
13:00:41 47 Yeah?---There was a lot of toing and froing around PII. I

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13:00:48 1 just don't recall whether we got to the trial process,
13:00:51 2 because once [REDACTED] pleaded we really started to go into
13:00:55 3 negotiations with Carl.
4

13:00:58 5 But it was coming up to trial, you were getting to the
13:01:02 6 business end. Was there a committal?---The committal had
13:01:07 7 taken place before.
8

13:01:09 9 You're quite right. Were there arguments about public
13:01:14 10 interest immunity with respect to your notes?---I don't
13:01:16 11 remember.
12

13:01:24 13 You certainly recall appearing in court when [REDACTED] was
13:01:32 14 pursuing subpoenas and trying his level best to get all the
13:01:36 15 relevant entries, diary entries, notes, disclosure, et
13:01:40 16 cetera, from Victoria Police?---I think his main concern
13:01:42 17 was, please correct me if I'm wrong, but he wanted access
13:01:46 18 to the statements of [REDACTED]
19

13:01:49 20 We had a transcript yesterday where he was calling for
13:01:52 21 notes, police notes as well. That was something that
13:01:59 22 [REDACTED] was generally after as well, wasn't it?---I don't
13:02:02 23 recall. I remember the statements being his focus.
24

13:02:05 25 Yeah?---I think he actually even at one stage asked for a
13:02:08 26 stay if they couldn't be served.
27

13:02:14 28 Would you expect that any notes which concerned
13:02:20 29 negotiations or discussions between Victoria Police and
13:02:24 30 representatives of [REDACTED] would be relevant entries to
13:02:30 31 produce either to the court, if there needs to be a PII
13:02:34 32 argument, or otherwise to the defence and to the Crown for
13:02:38 33 the purposes of enabling a trial to be conducted
13:02:45 34 fairly?---Yes, I would think so now, yep.
35

13:02:48 36 Would you have thought so then?---Well, I hope I did, yeah,
13:02:53 37 I can see the relevance of it. I feel like you're just
13:02:57 38 about to hit me with something that contradicts myself, so
13:03:01 39 I'm being cautious, but I would have thought I did.
40

13:03:04 41 Just try and answer the question?---I'm trying to.
42

13:03:07 43 All right?---Can I just make one point of my chronology on
13:03:30 44 30 June, sorry, for 4 July 2006.
45

13:03:38 46 Yes?---"Received SMS from Nicola Gobbo, [REDACTED] committed,
13:03:46 47 worried about her safety if he follows through."

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1
13:03:49 2 Yes?---I think that's just an illustration of me using her
13:03:52 3 name rather than her 3838 reference but still very much in
13:03:57 4 line with [REDACTED] cooperating with police.
5
13:04:21 6 What you say is that on occasions you refer to her as
13:04:23 7 Nicola Gobbo?---In the same set of circumstances that
13:04:26 8 you're putting that I used 3838.
9
13:04:31 10 Yes?---You know, I also use here her real name and this is
13:04:36 11 where I say it's probably just my thinking or who I'm
13:04:39 12 talking to at that time, you know, especially when I'd have
13:04:45 13 conversations with Jim O'Brien it was always used as 3838.
14
13:04:50 15 Yes?---When I was talking to other people it was more
13:04:57 16 Nicola Gobbo.
17
13:04:58 18 I'm going to take you through other notes. It's quite
13:05:01 19 clear that you do refer to her as Nicola Gobbo at various
13:05:05 20 stages. The point I'm making to you is at a time when
13:05:09 21 you're, and Mr O'Brien and Mr Ryan, you're trying to get
13:05:14 22 [REDACTED] to, in your view of the world, see sense, you
13:05:22 23 provide her with a transcript, or you provide the handlers
13:05:26 24 with a transcript and you refer to her as 3838. It's a
13:05:28 25 fair question, isn't it, or it's a fair assumption that
13:05:32 26 you're doing so for a particular purpose?---I understand
13:05:35 27 your proposition.
28
13:05:37 29 All right. You say, "Look, there are other occasions which
13:05:40 30 I'd like to draw the Commission's attention to where I
13:05:43 31 describe her as Nicola Gobbo"?---In the same circumstances
13:05:47 32 around [REDACTED] cooperating.
33
13:05:50 34 Yeah, all right, okay. You then go - I think you get a
13:05:59 35 note - just excuse me. If we go to ICR 255 on [REDACTED]
13:06:16 36 2006. 255?---Which date, sorry?
37
13:06:26 38 [REDACTED] 2006. You'll see under the heading "[REDACTED]
13:06:36 39 transcripts" that these transcripts are shown to Ms Gobbo
13:06:42 40 "at investigator request". One assumes that that
13:06:46 41 investigator is a reference to, well, to Purana being you,
13:06:53 42 O'Brien and Gavan Ryan?---I would imagine that's for Jim
13:07:01 43 O'Brien, yep.
44
13:07:04 45 You were obviously aware that the notes were being provided
13:07:08 46 because that was the effect of the meeting which you had on
13:07:11 47 [REDACTED] the day before?---Yes.

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1
13:07:15 2 "Ms Gobbo was aware that [REDACTED] has not told the entire
13:07:19 3 truth. Ms Gobbo told that police will have nothing to do
13:07:24 4 with [REDACTED] unless he tells the entire truth. Ms Gobbo
13:07:28 5 believes that [REDACTED] shot [REDACTED]. Hasn't mentioned
13:07:34 6 this in his statements", that is it seems that [REDACTED]
13:07:39 7 hasn't mentioned this in his statements. "Ms Gobbo's going
13:07:42 8 to speak to Mr Bateson about what can be done for [REDACTED]
13:07:48 9 before she talks to him. She's concerned regarding what
13:07:52 10 charges that he'll face", right? Do you recall having a
13:07:58 11 discussion with Ms Gobbo about whether or not [REDACTED] had
13:08:06 12 been truthful in his statements?---I think in terms of the
13:08:14 13 [REDACTED] that we'd had, the conversations we had
13:08:18 14 with him up until that point, I think I'd been quite clear
13:08:23 15 that he wasn't a witness of truth at that point, yeah. I
13:08:27 16 was still - - -
17
13:08:28 18 And you wanted him, as far as you were concerned, to be
13:08:32 19 truthful according to certainly the view of the world that
13:08:35 20 you had and your investigators had?---If he was going to
13:08:41 21 become a Crown witness, yes.
22
13:08:44 23 Would he need to be truthful in the sense that his story
13:08:48 24 lined up with the other witnesses who you had?---I think
13:08:53 25 what's important is it's got to be a statement that fit,
13:08:59 26 you know - not fits, it is backed up by evidence.
27
13:09:03 28 Yeah?---You know, that's - you know, I think if we're going
13:09:08 29 to put someone into the witness box we have to believe
13:09:12 30 they're telling the truth.
31
13:09:13 32 You were going to say fits. Were you going to say fits
13:09:17 33 with what the other witnesses have to say?---No, what we
13:09:20 34 believe to be the truth.
35
13:09:22 36 All right. Based on what the other witnesses had
13:09:25 37 said?---No, on the totality of the evidence. There was a
13:09:29 38 lot more than just what witnesses said.
39
13:09:31 40 Okay. 465 search warrant on her office regarding notes.
13:09:35 41 She's prepared to assist police regarding the notes but
13:09:38 42 prefers that they be seized under warrant. Effectively do
13:09:43 43 you agree that what she's saying there is, "I'm happy for
13:09:47 44 you to have the notes but for coverage it's better if it be
13:09:52 45 done by way of a warrant"?---Yes.
46
13:09:55 47 Reading that now do you see anything remotely strange about

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13:10:01 1 that?---No.
2
13:10:08 3 No, all right. You think that it's reasonable for a
13:10:10 4 barrister to be talking to police about handing over notes
13:10:12 5 that she's taken of communications with her clients but
13:10:18 6 doing it under the cover of a warrant, in effect arranging
13:10:21 7 it with the police that it be done that way, you don't see
13:10:25 8 anything wrong with that?---I can see the proposition that
13:10:32 9 you make but I didn't at the time.
10
13:10:34 11 Okay, all right. I think I put to you previously some of
13:10:55 12 the things that Ms Gobbo said when she had a discussion
13:10:57 13 with her handlers when she was shown the transcripts and I
13:11:06 14 don't want to take you through all of those. But your
13:11:09 15 understanding was that she would be shown these
13:11:12 16 transcripts, not given the transcripts?---Yeah, not - - -
17
13:11:15 18 Do you accept that?---I accept that, yes.
19
13:11:17 20 She would be permitted to read the transcripts in the
13:11:20 21 presence of her handlers and not take them away, do you
13:11:26 22 accept that?---Yeah, I wouldn't have wanted her to have
13:11:29 23 them.
24
13:11:31 25 Yeah?---At that point, no.
26
13:11:34 27 All right. What did you want to achieve by her seeing
13:11:45 28 these transcripts?---From my point of view what I
13:11:50 29 understood, I personally, as I said on 19 April, was very
13:11:56 30 happy to prosecute [REDACTED].
31
13:11:58 32 What do you believe - - - ?---The test - - -
33
13:12:01 34 I'm sorry for interrupting. I just want to make the
13:12:04 35 question clear. What do you believe the investigative
13:12:07 36 endeavour was in having her see these transcripts?---I
13:12:11 37 think what we wanted to achieve there is to inform her
13:12:14 38 about what he was saying exactly and why we were not
13:12:18 39 interested in his account if he maintained that account.
40
13:12:22 41 Yeah. Is that something that Jim Valos could have done
13:12:27 42 equally as well?---Yes.
43
13:12:30 44 And yet it wasn't - Valos wasn't chosen for the task of
13:12:35 45 carrying out this investigative endeavour?---No, he wasn't.
46
13:12:42 47 Indeed, it was done through the SDU and it being done

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13:12:49 1 through the SDU it wouldn't come to light without a real
13:12:53 2 scrap, that's the reason for doing it through the SDU and
13:13:00 3 not through his solicitor?--No, that certainly wasn't in
13:13:04 4 my mind in that meeting so it may well have been in Jim's
13:13:09 5 or Gavan's but it wasn't in mine.
6
13:13:11 7 Okay. On [REDACTED] you were, I think it was a Saturday, did
13:13:47 8 you attend Victoria Police station, have you got your notes
13:13:55 9 there?--I was recalled to duty. I was on call and I was
13:14:04 10 recalled to duty.
11
13:14:05 12 Yes?--Got to the office at 10 pm.
13
13:14:11 14 You're obviously aware that there was a bit of activity
13:14:15 15 going on at that time, there were arrests being made by
13:14:18 16 your colleagues in Operation [REDACTED]?--Correct.
17
13:14:21 18 I think you and Ryan were tasked to assist in that process;
13:14:29 19 is that right?--From my memory I just, yeah, that's right,
13:14:33 20 I was sent out with Dale McQualter to just be in the
13:14:41 21 vicinity of [REDACTED], just making sure no one came in the
13:14:46 22 back door while we were still in that investigative phase.
23
13:14:50 24 You would have been aware that Ms Gobbo attended that
13:14:54 25 night, wouldn't you, if you were at the office at about 10
13:14:57 26 o'clock?--No.
27
13:14:57 28 No?--No, I didn't know that. I wasn't involved in that at
13:15:02 29 all. As I said, I was just sent out - it was all hands on
13:15:05 30 deck and I was sent out to sit behind [REDACTED] and make sure
13:15:09 31 no one got into it until we were ready.
32
13:15:12 33 All right, okay. Thanks very much Commissioner.
34
13:15:15 35 COMMISSIONER: All right then, we'll adjourn until 2
13:15:18 36 o'clock.
37
13:15:38 37
13:15:39 38 <(THE WITNESS WITHDREW)
13:15:40 39
40 LUNCHEON ADJOURNMENT
41
42
43
44
45
46
47

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13:51:18 1 UPON RESUMING AT 2.07 PM:

14:07:31 2
14:07:31 3 COMMISSIONER: Yes Mr Winneke.

14:07:33 4
14:07:34 5 <STUART BATESON, recalled:

14:07:36 6
14:07:37 7 MR WINNEKE: Thanks Commissioner. I hadn't tendered, and
14:07:40 8 perhaps I should tender, I'll pop up on the screen if we
14:07:44 9 can find it the so-called conflict mention. This is [REDACTED]
14:07:48 10 [REDACTED] 2006. Mr Bateson, you're not there but you hear
14:07:53 11 about it?---Yes.

14:07:54 12
14:07:55 13 As I understand it. Do you think you got a transcript of
14:07:58 14 it?---I'm not sure at that time. I could have.

14:08:09 15
14:08:10 16 You were on the email list from the court, were you?---I
14:08:13 17 think from the OPP.

14:08:14 18
14:08:16 19 When we got your emails we see a lot of emails which have
14:08:20 20 transcripts attached to them. I don't know whether this
14:08:23 21 was one of them. It may well be that you were getting
14:08:27 22 transcripts from the court, sorry, from the OPP around this
14:08:30 23 time?---It could have been, yes.

14:08:32 24
14:08:34 25
14:08:36 26 #EXHIBIT RC771A - (Confidential) Conflict mention before
14:08:36 27 Justice King [REDACTED] 06.

14:08:42 28
14:08:42 29 #EXHIBIT RC771B - (Redacted version.)

14:08:45 30
14:08:47 31 MR WINNEKE: It says that Messrs Horgan SC and Tinney
14:08:50 32 appeared on behalf of the Crown. Mr Heliotis appeared on
14:08:54 33 behalf of Solicitor 2 and then there was someone from
14:08:58 34 Corrections and Ms Gobbo was asked to attend. She appeared
14:09:02 35 at the request of the court, do you see that?---Yes.

14:09:04 36
14:09:05 37 What's that about, if we can go over the page, just scroll
14:09:16 38 through that. Her Honour says, "I've received
39 communication indicating she was prevented from having a
14:09:23 40 conference in relation to Mr Williams and correspondence
14:09:24 41 has been forwarded by Solicitor 2". So [REDACTED] Prison has
14:09:35 42 sent a copy of the letter that had been sent by Solicitor
14:09:42 43 2. And then if we scroll through we see that Her Honour,
14:09:49 44 if we keep going - I just want to go through to the
14:10:03 45 exchange between - keep going - between Justice King and
14:10:07 46 Ms Gobbo and I think you've referred to that yourself,
14:10:14 47 Mr Bateson. We'll keep going and I think it's - here we

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14:10:19 1 are. "The reason I asked Ms Gobbo to attend is that this
14:10:24 2 letter says that Ms Gobbo is acting for [REDACTED] as junior
14:10:29 3 to Mr Heliotis. I would have thought that that would
14:10:32 4 create the same problems as to why Ms Gobbo was not your
14:10:35 5 junior in the last trial." Ms Gobbo says, "Your Honour, I
14:10:38 6 haven't seen the letter but I don't think it's Mr Heliotis,
14:10:40 7 I think it's Mr Lovitt. I'm sorry, as junior to
14:10:49 8 Mr Lovitt". It may well be that she's talking about the
14:10:55 9 committal, in fact because she says, "No, no, Your Honour,
14:10:58 10 I can't appear in the trial for the same reasons I couldn't
14:11:01 11 appear at the committal and can't appear at this trial".
14:11:08 12 Her Honour says, "Have you seen the letters?" And Ms Gobbo
14:11:10 13 says, "No, I haven't". And Her Honour says, "The first
14:11:13 14 letter is dated 13 April" and she sets out what is being
14:11:19 15 sought and I've already referred you to that. "We confirm
14:11:23 16 the writer is the solicitor on the record for Mr Williams
14:11:28 17 and Ms Gobbo is counsel for [REDACTED]. We advise that the
14:11:29 18 proposed legal conference on Saturday 15 April is to confer
14:11:33 19 in relation to trial proceedings listed for July of 2006",
14:11:39 20 which was the time frame at which, at this stage, because
14:11:42 21 the matter was still going ahead as a trial, that it was
14:11:45 22 listed, is that right?---Yes.

14:11:47 23
14:11:53 24 I'm sure that you're not surprised, the next letter is,
14:11:56 25 "[REDACTED] is represented by the firm Messrs Valos Black
14:11:59 26 and his counsel is Colin Lovitt QC and Ms Nicola Gobbo".
14:12:10 27 Justice King says to Ms Gobbo, "I think you understand why
14:12:13 28 I've asked you to come. Yes, Your Honour. You are not
14:12:16 29 counsel. No, Your Honour, I have continued to have a role
14:12:19 30 in relation to [REDACTED] and I've visited him, as everyone
14:12:23 31 here is probably well aware, with Valos and one of the
14:12:26 32 reasons", I'll leave aside the reasons. Her Honour says,
14:12:30 33 "I've read the plea, I've seen the plea in respect of
14:12:33 34 [REDACTED]. Sorry, [REDACTED] was it? No, it's someone
14:12:37 35 else. Were you involved with [REDACTED] in some other way?
14:12:42 36 Not in relation to this trial, Your Honour". She says,
14:12:45 37 "You certainly shouldn't be having a joint conference".
14:12:51 38 Then there's a discussion which goes on and it seems that
14:12:55 39 there was a reference to calming the waters, if you like,
14:13:01 40 and quelling rumours, and that was the explanation that was
14:13:04 41 given. That was your understanding, is that right?---Yeah,
14:13:07 42 that Carl was going to plead guilty and I think the concern
14:13:11 43 was that he may well give evidence against [REDACTED]

14:13:16 44
14:13:17 45 Whether or not that's the case, the transcript speaks for
14:13:20 46 itself, but what Her Honour seems to be making reasonably
14:13:25 47 clear is that, "In relation to this trial you are not

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counsel". The trial involved the trial of [REDACTED] in the murders of [REDACTED] and [REDACTED]. That's what the subject of the trial was, do you understand that?---Yes.

And she was making it clear, insofar as she was able to as the trial judge, that Ms Gobbo was not to have a role in the prosecution and defence of [REDACTED] for the murders of [REDACTED] and [REDACTED]. That's what I suggest to you she was making reasonably plain in that exchange, do you accept that?---Yeah, I accept that she was making it clear that she couldn't act in a trial and I think that's accepted by Ms Gobbo.

You understand the point being that because she had acted previously in relation to [REDACTED] it would be necessary for counsel, independently and properly advising [REDACTED] to provide him with sound advice as to the strength of the case against him, including any weaknesses in the evidence that the star witness would provide, that being [REDACTED] ---I don't know, there was a lot in that. I think what I can accept is it was pretty clear that the judge thought there was a conflict of interest and she wouldn't allow her to act at a trial.

Allow her to act at a trial?---Yep.

That's what you took from it, did you?---That's right.

Did you have discussions with whoever relayed the information to you about the exact words that she had used, or was it a general discussion about Ms Gobbo not being permitted to be involved as counsel for [REDACTED]?---I don't know. Just my notes is what is indicative of that conversation, so no, I don't know if I had a specific conversation.

Yes, all right. And then you have a discussion subsequently with Mr Horgan, correct?---On 21 - sorry, I just have to go back to my notes.

Yes, by all means?---2006. So when do you say that conversation took place?

You had a discussion with - I apologise, I might have misled you. You had a discussion with Mr Horgan - I might just leave that for the moment. I'll leave that for the moment. In any event what I want to do is move on to some

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14:17:05 1 further communications that you have. On [REDACTED], we just
14:17:15 2 dealt with that, the arrests of the - the [REDACTED] arrest.
14:17:21 3 Then [REDACTED], the [REDACTED], if we go to ICR 261 -
14:17:33 4 sorry, p.261, [REDACTED] 2006. It appears there's been a
14:17:37 5 communication between [REDACTED] and Ms Gobbo and he wants
14:17:45 6 Ms Gobbo to speak to Colin Lovitt QC and get his opinion if
14:17:52 7 [REDACTED] is fucked. And if so, he would likely assist
14:18:02 8 Purana. Do you see that?---Yes.

14:18:06 9
14:18:07 10 That would be not surprising. Mr Lovitt was a very
14:18:14 11 experienced criminal QC?---He is.

14:18:18 12
14:18:18 13 And had acted in many, many murders over the years?---I
14:18:23 14 believe so, yes.

14:18:23 15
14:18:23 16 And successfully in many cases?---Yes.

14:18:26 17
14:18:27 18 It would be very wise for a person like [REDACTED], if he's
14:18:31 19 considering taking the course that's being suggested, to
14:18:34 20 speak to someone like Colin Lovitt who had indeed
14:18:38 21 represented him at the committal?---Look, I think it's
14:18:41 22 reasonable that anyone would try and get some advice from
14:18:46 23 someone they trusted.

14:18:47 24
14:18:47 25 I'm talking about someone who is an experienced QC, who has
14:18:54 26 represented many murderers, who has represented him at this
14:18:58 27 committal, he would want to get a view from Mr Lovitt
14:19:04 28 before he made such a decision. Do you think that's a
14:19:05 29 reasonable thing for [REDACTED] to do?---I think it's
14:19:07 30 reasonable, yes.

14:19:08 31
14:19:08 32 Indeed, had you ever seen Ms Gobbo on her own representing
14:19:12 33 a murderer in a Supreme Court trial?---No.

14:19:15 34
14:19:16 35 Had you seen her on her own representing anyone in any
14:19:20 36 trial in either the County or the Supreme Court?---I don't
14:19:23 37 think so.

14:19:24 38
14:19:24 39 Before a jury?---I don't think so.

14:19:27 40
14:19:28 41 No doubt my learned friend will correct me but she was not
14:19:31 42 an experienced trial advocate?---She certainly wasn't as
14:19:35 43 experienced as Mr Lovitt.

14:19:37 44
14:19:38 45 They're chalk and cheese, you'd have to agree with
14:19:41 46 that?---Yeah, I would.

14:19:42 47

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14:19:43 1 What Ms Gobbo says is in the exchange here, she believes
14:19:52 2 that Lovitt will affirm this, that is he will affirm that
14:19:58 3 [REDACTED] doesn't have a chance in defending the murder
14:20:04 4 trial and if so - "Will affirm this and believes that he is
14:20:10 5 very depressed and needs a push to come on board totally".
14:20:14 6 Do you see that?---Yes.
14:20:16 7
14:20:17 8 I wouldn't suggest that you were aware of that
14:20:22 9 conversation, but what that does suggest - am I right about
14:20:26 10 that, were you told about that exchange?---No, I wasn't.
14:20:30 11 What date was it?
14:20:32 12
14:20:32 13 That's [REDACTED] 2006?---No, I was not.
14:20:35 14
14:20:38 15 I mean what it quite clearly shows or appears to show is
14:20:43 16 that someone who is a human source acting as a human
14:20:49 17 source, and a police agent if you like, expressing views
14:20:52 18 that would be consistent with assisting police, "He's very
14:20:56 19 depressed and he needs a push to come on board". That
14:21:01 20 might suggest that, mightn't it?---It might. Equally I
14:21:06 21 think you could argue that it's her discussing her work as
14:21:10 22 a barrister with her handlers.
14:21:11 23
14:21:11 24 Yes, all right. And then there's a further discussion and
14:21:22 25 a further phone call shortly afterwards and she repeats the
14:21:27 26 above entry with respect to [REDACTED] "[REDACTED] has told
14:21:31 27 [REDACTED] him as he expects to get at least [REDACTED]
14:21:35 28 years if he assists police or [REDACTED]", one assumes, "If he
14:21:39 29 does not. And he's heard that, that is Carl Williams has
14:21:43 30 heard that [REDACTED] may roll and is very hurt by this,
14:21:48 31 known him for a long time", do you see that?---Yes.
14:21:51 32
14:21:53 33 On [REDACTED] 2006, if we go down to ICR 275, "Ms Gobbo is
14:22:02 34 going to see [REDACTED]", do you see that?---No.
14:22:24 35
14:22:24 36 In any event we probably won't worry about that. If we
14:22:27 37 then go to 3 May 2006, ICR 282. This is 3 May. ICR 282.
14:22:43 38 "Hasn't heard from [REDACTED] for a few days. If he knew of
14:22:48 39 [REDACTED] cooperation would be more likely to do the
14:22:52 40 same. Has spoken to [REDACTED] about a matter that
14:22:58 41 [REDACTED] had and [REDACTED] was involved with". Two days later, if we
14:23:17 42 go to the ICR at p.288. We see that there's a further
14:23:23 43 reference to [REDACTED] at 288. "If he was aware", so this
14:23:35 44 is discussion with her handlers about, it appears to be,
14:23:42 45 trying to get [REDACTED] to assist police. "If he was aware
14:23:48 46 that [REDACTED] and [REDACTED] were assisting police he will
14:23:56 47 roll. She suggests that Bateson see [REDACTED] as soon as

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14:24:00 1 possible, to also inform him that he can't talk to human
14:24:10 2 source. Human source believes that part of the reason that
14:24:12 3 he is hesitating regarding assisting police is [REDACTED] and
14:24:17 4 [REDACTED] Are you able to make any sense of that
14:24:24 5 extract?---Not beyond the words that are written there.
14:24:30 6
14:24:30 7 Suggestions are being made, "Look, these are ways that you
14:24:33 8 might be able to get him on board. Focus on, for example,
14:24:37 9 telling him that [REDACTED] and [REDACTED] are assisting
14:24:41 10 police, that will encourage him to do so. Mr Bateson
14:24:45 11 should see him as soon as possible. Inform him that he
14:24:51 12 can't talk to Ms Gobbo". I mean one would think that's
14:24:58 13 strange if she was acting as his barrister, "Tell him to
14:25:03 14 tell the client not to speak to her". That would seem a
14:25:08 15 bit odd?---Or is it me that's not to speak to her?
14:25:12 16
14:25:13 17 Not to speak to Ms Gobbo, or either [REDACTED] not to speak
14:25:18 18 to Ms Gobbo, it's not clear, is it?---No, it's not.
14:25:23 19
14:25:24 20 You don't know anything about that?---What date was that?
14:25:27 21 I'll just check.
14:25:27 22
14:25:27 23 That's 5 May. Do you have any entries there?---No, nothing
14:25:53 24 that would help us.
14:25:54 25
14:26:00 26 Her view is that he's hesitating because of the situation
14:26:04 27 with respect to [REDACTED] and so concern about what
14:26:09 28 will occur with respect to [REDACTED]. If we then go to 9
14:26:15 29 May 2006, ICR 293. Ms Gobbo speaks to her handlers, p.293,
14:26:26 30 and rang and someone from Purana should see him today,
14:26:40 31 someone should see him and Mr O'Brien was advised about
14:26:43 32 that?---I'm just struggling to see it. I've seen it now.
14:26:51 33
14:26:51 34 About the middle of the page there?---Yep.
14:26:54 35
14:26:55 36 Do you see that? You didn't see him at that stage, do you
14:27:01 37 know whether anyone else went out to see him?---No, I was
14:27:04 38 the only one - I did take other people but it was, I was
14:27:08 39 the consistent.
14:27:09 40
14:27:09 41 Right. If we then go to 10 May, ICR p.294. Ms Gobbo had
14:27:34 42 to speak to Detective Sergeant Bateson who said that he had
14:27:40 43 heard that Ms Gobbo had had a couple of difficult weeks.
14:27:46 44 There doesn't appear to be any reference to a discussion
14:27:51 45 with you on 10 May, is there, in your notes or your
14:27:56 46 diary?---No.
14:27:57 47

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14:27:58 1 Was it the case that on occasions you'd speak to Ms Gobbo
14:28:01 2 without making a note of it?---No. So I can't make sense
14:28:06 3 of that. It was always something that I would put in.
14:28:11 4
14:28:11 5 You mightn't always make a note of your communications with
14:28:14 6 Ms Gobbo?---I would have thought I did if it was something
14:28:18 7 I thought that was particularly noteworthy, so I can't
14:28:23 8 think that that occurred and I don't know what she would be
14:28:26 9 referring to in terms of a difficult couple of weeks.
14:28:30 10
14:28:31 11 If we go to 16 May 2006, ICR p.300. There's a telephone
14:28:41 12 communication between Ms Gobbo and the handler. "About to
14:28:47 13 make an offer regarding a guilty plea for [REDACTED] as
14:28:53 14 human source was advising that she needs to speak to
14:28:58 15 Bateson. She [REDACTED] and was asking if [REDACTED] had made a
14:29:04 16 statement and she replied not to my knowledge". But do you
14:29:09 17 know, did you have any communication with Ms Gobbo at that
14:29:12 18 stage?---16 May?
14:29:15 19
14:29:15 20 Yes?---No.
14:29:20 21
14:29:20 22 Right. On 17 May 2006, the following page, 301, do you
14:29:34 23 have a note of a conversation on 17 May?---No, I do not.
14:29:40 24
14:29:42 25 It appears that she has spoken to you, "3838, human source
14:29:49 26 spoken to", or ST, one assumes that's spoken to, "Detective
14:29:53 27 Sergeant Bateson and it appears that she was told that the
14:29:57 28 [REDACTED] was on hold for the time being". Do you see
14:30:07 29 that? If we're to accept the accuracy of that, as you
14:30:13 30 indicated, they seem to be good record keepers, it seems
14:30:14 31 that there was a discussion between you and she at that
14:30:16 32 time?---That's what that note would indicate but I'm just
14:30:21 33 looking at what I was doing on that day. Worked till about
14:30:28 34 six o'clock. There's no note of a conversation with her.
14:30:32 35 I was pretty well engaged all of the day.
14:30:35 36
14:30:35 37 In any event there may or may not have been a conversation
14:30:38 38 - - - ?---Sorry, there's, I do get a call from her on the
14:30:45 39 19th - no, I'm looking at the wrong year, sorry.
14:30:50 40
14:30:50 41 When do you get a call from her?
14:30:54 42
14:30:55 43 COMMISSIONER: He's looking at the wrong year.
14:30:57 44
14:30:57 45 WITNESS: I'm looking at 19 May.
14:30:57 46
14:30:58 47 MR WINNEKE: It might help if you look at the right

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14:31:00 1 year?---I'm sorry.

14:31:03 2

14:31:03 3 COMMISSIONER: You probably need to go back and check all

14:31:05 4 the dates?---I do know they compiled my chronology, so

14:31:11 5 unless I missed one.

14:31:12 6

14:31:13 7 MR WINNEKE: It does appear that there seem to be

14:31:16 8 references to communications that at least that's what

14:31:19 9 she's telling her handlers, and unless she's dreaming or

14:31:23 10 telling lies to her handlers it appears that she has

14:31:26 11 discussions with you which haven't been noted?---Yes, I'm

14:31:31 12 on leave on 17 May 2006, so look - - -

14:31:34 13

14:31:34 14 It may be she spoke to you - she has your mobile phone

14:31:38 15 number, does she?---Yes, so she may have rang me while I

14:31:42 16 was on leave and I didn't make a note of it because I was

14:31:45 17 away or doing something else, I don't know, or I didn't

14:31:48 18 remember to make a note of it because it wasn't

14:31:50 19 significant, but yeah, I was on leave for 17 May.

14:31:52 20

14:31:53 21 On 15 June, so there's a bit of a gap, you're away for a

14:31:59 22 while, and if we come now to 15 June. Is the situation

14:32:06 23 that you were informed by Gavan Ryan that [REDACTED] wanted

14:32:12 24 to see you?---Yes, and tell all.

14:32:16 25

14:32:16 26 In order to provide information?---My note just reads,

14:32:22 27 "Wants to see me and tell all".

14:32:24 28

14:32:24 29 Tell all in quotation marks, suggesting that he wants to,

14:32:30 30 one assumes, tell you what was going on, whether in the way

14:32:34 31 of a witness or as the provider of information, who

14:32:38 32 knows?---Whatever it is.

14:32:39 33

14:32:39 34 And you need to go and see him and you do. It appears that

14:32:54 35 you do go and see him, you and I think Ms Kerley go and see

14:33:01 36 him on 16 June, is that right?---Yes.

14:33:04 37

14:33:05 38 And throughout the course of that conversation it's

14:33:08 39 apparent that he's very concerned about the position of [REDACTED]

14:33:12 40 [REDACTED] is that right?---Let's have a look at what I saw

14:33:18 41 there. Yeah, he does, he does. He does talk about doing a

14:33:25 42 deal to [REDACTED]

14:33:26 43

14:33:26 44 He tries to leverage that situation, [REDACTED] the subject

14:33:32 45 of allegations of charges I think, is that right?---Yes, I

14:33:36 46 think some [REDACTED] charges from memory.

14:33:38 47

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14:33:38 1 He wanted to see if he could [REDACTED] of it and that
14:33:42 2 would be part of the quid pro quo as far as he was
14:33:46 3 concerned?---Yes.

14:33:47 4
14:33:47 5 There were issues also I think with respect to [REDACTED],
14:33:50 6 [REDACTED] which were [REDACTED]?---I think some of the
14:33:54 7 [REDACTED] necessitated at least [REDACTED] being [REDACTED]
14:33:57 8 as I recall.

14:33:58 9
14:33:59 10 If we can perhaps put up the transcript which is
14:34:04 11 VPL.0005.0062.0792. At this stage you're out there because
14:34:31 12 he's asked you to come out?---Yes.

14:34:33 13
14:34:35 14 If we go to p.12.

14:34:44 15
14:34:44 16 COMMISSIONER: It's Exhibit 478 for the record, thanks.

14:34:47 17
14:34:48 18 MR WINNEKE: Yes, thanks Commissioner. "My solicitors
14:34:52 19 don't know you're here" and you say, "Don't know". And we
14:34:57 20 go over the page. "All right, we won't say anything". And
14:35:04 21 Kerley says, "I wondered why you did it that way". [REDACTED] says,
14:35:11 22 "Hey? I wondered why you did it that way", in other words
14:35:14 23 contacting you directly, not through the solicitor, is that
14:35:18 24 what you understood him to be - - - ?---Yes.

14:35:20 25
14:35:20 26 He says, "Jim's a lovely bloke but Jim tells Nicola
14:35:27 27 everything and I just don't feel safe with Nicola 'cause
14:35:31 28 what I want to do, I'll cop it sweet, I just want [REDACTED]
14:35:35 29 to be left alone, if it can be left alone, I don't know".
14:35:40 30 So there's that issue at the outset of the discussion. Did
14:35:47 31 you have any view as to why he wanted to speak to you
14:35:50 32 directly and what he meant by his concern about Nicola
14:35:57 33 Gobbo?---Well, look, to be honest, I think [REDACTED] was
14:36:04 34 always sort of an excitable character, I think he'd go - he
14:36:08 35 wasn't one to sit still.

14:36:10 36
14:36:10 37 Yes?---So I'm not surprised to see him going different
14:36:15 38 ways, but in terms of the Nicola, what I thought at that
14:36:19 39 time was that, and now, is that he wasn't sure that Nicola
14:36:26 40 would or would not inform Williams and Mokbel and perhaps,
14:36:34 41 you know, endanger himself and [REDACTED]

14:36:40 42
14:36:43 43 So clearly he's concerned about Nicola, that seems to be
14:36:47 44 the case?---Yes.

14:36:48 45
14:36:56 46 If we go on to p.44. He says, "What I know, like an
14:37:12 47 informer, I can give you information, that's it". You say,

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14:37:15 1 "Okay. And no one knows about it. If youse can help [REDACTED]
 14:37:19 2 [REDACTED] I'm looking at, I don't know what I'm looking at,
 14:37:23 3 whatever". You say, "Well, what do we need to do to you
 14:37:26 4 then?" And he says, "Sign it". And you say, "No, what I
 14:37:31 5 need you to do is get your head together, write down some
 14:37:35 6 stuff on paper yourself. We'll come down and see you
 14:37:38 7 perhaps on Monday, if you like, and you can keep the
 14:37:43 8 paper". At that stage he's still not over the line, if you
 14:37:47 9 like, he's still not saying to you, "I am prepared to
 14:37:52 10 assist you, to go into the witness box for you"?---Correct.
 14:37:55 11
 14:37:58 12 And there's a difference between pleading guilty on the one
 14:38:01 13 hand and then pleading guilty and going that extra step and
 14:38:06 14 getting into the witness box and he's saying, "Look, I'm
 14:38:09 15 happy to provide you with information but I'm just not
 14:38:11 16 prepared at this stage to get into the witness box"?---Yes.
 14:38:16 17
 14:38:16 18 And there was quite a bit of this going on in the times
 14:38:18 19 that you were speaking to him, wasn't there?---Look, I
 14:38:24 20 think we visited him five times, yeah, and he was, he was
 14:38:30 21 just that type of character, so there was a bit of back and
 14:38:34 22 forth, yeah.
 14:38:34 23
 14:38:36 24 Finally the way it's left is, if we go to p.45, "What I
 14:38:48 25 want you to do, what I need you to do, if you want to help
 14:38:52 26 [REDACTED] and I'm not saying that we can in any way, but
 14:38:56 27 what I need you to do is get you to get your head together,
 14:38:59 28 write some of this down in a clear order, I want to know
 14:39:05 29 how you know stuff, not just what you know, how you know,
 14:39:09 30 okay". So that's what you were saying to him. "We want
 14:39:13 31 you to put this information down, that's the first step and
 14:39:17 32 then we'll take it from there", but you still haven't got
 14:39:20 33 him over the line, have you?---No.
 14:39:22 34
 14:39:33 35 That's been tendered I think, Commissioner, has it?
 14:39:37 36
 14:39:38 37 COMMISSIONER: Yes, 478, 16 June 2006.
 14:39:42 38
 14:39:43 39 MR WINNEKE: Thanks very much. I just want to, before I
 14:39:45 40 move on from that, I missed a matter on 26 May. Can we put
 14:39:50 41 this up, VPL.2000.0001.9408. This is a hand over document
 14:40:28 42 which was created by members of the SDU.
 14:40:34 43
 14:40:34 44 COMMISSIONER: Exhibit 301 I'm told.
 14:40:36 45
 14:40:36 46 MR WINNEKE: Yes. If we can go to p.3 of the document.
 14:40:46 47 What you see there is as at that date, [REDACTED] is still

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14:40:52 1 uncertain, there's still uncertainty about him with respect
14:40:55 2 to rolling although Ms Gobbo reckons he will. He was
14:40:59 3 hesitating with respect to some discrepancies in the Purana
14:41:03 4 materials and also [REDACTED] may now have put him in for
14:41:12 5 various [REDACTED] and Purana don't want to see him again
14:41:17 6 until he's going to give the 100 per cent truth.
14:41:25 7 Right?---Yes.

14:41:26 8
14:41:29 9 Are you aware that Mr O'Brien had arranged for Ms Gobbo to
14:41:40 10 view [REDACTED] draft statements behind the scenes, if you
14:41:47 11 like?---No.

14:41:47 12
14:41:48 13 Had you had any knowledge of that?---No.

14:41:50 14
14:41:55 15 What I'm going to suggest is that there was a sort of an
14:41:58 16 MO, if you like, whereby Purana would arrange for Ms Gobbo
14:42:03 17 to see documents, if you like, behind the scenes or in
14:42:07 18 secret to provide her with information to enable her to
14:42:11 19 carry out the tasks that Purana wanted her to carry out as
14:42:15 20 an agent of Victoria Police. Now, do you accept that
14:42:19 21 proposition or not?---No, I don't.

14:42:22 22
14:42:23 23 We've got evidence that that occurred with respect to your
14:42:29 24 transcripts of conversations with [REDACTED] correct?
14:42:35 25 We've got evidence that occurs with respect to [REDACTED]
14:42:42 26 statements, looking at those statements and commenting on
14:42:44 27 them and checking them. Now you say you're not aware of
14:42:48 28 that?---No, I was not.

14:42:50 29
14:42:50 30 You've heard, I take it you say you weren't aware then but
14:42:54 31 you're aware now?---Only since you raised it.

14:42:57 32
14:42:58 33 Okay. Obviously there's evidence that Ms Gobbo was
14:43:01 34 involved, we'll come to it in due course, in the process of
14:43:05 35 looking at [REDACTED] statements, are you aware of
14:43:11 36 that?---Yes.

14:43:12 37
14:43:14 38 And you were aware of that at the time?---Yes.

14:43:18 39
14:43:20 40 And that was at a time before the statements had been
14:43:22 41 provided to [REDACTED] solicitors? Before they'd been
14:43:31 42 signed?---Before they'd been signed, yep.

14:43:33 43
14:43:33 44 Do you agree that that is not the way in which Victoria
14:43:37 45 Police would, as a general course, deal with
14:43:45 46 barristers?---Generally it would be the solicitor, so the
14:43:47 47 other times - it was our common procedure then and still

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14:43:52 1 exists to get, if the person wanted their lawyer to review
14:43:59 2 the statements, we did that with [REDACTED] and we did it
14:44:03 3 again with Carl Williams when he made a statement later, we
14:44:06 4 provided that to Marita Altman all of which are solicitors.
14:44:11 5
14:44:11 6 Yes, she was the solicitor on the record and it was
14:44:13 7 provided to her in a copy that she could keep and
14:44:16 8 have?---Yeah.
14:44:18 9
14:44:18 10 Do you accept that?---Marita Altman?
14:44:21 11
14:44:21 12 Yes?---I don't know if she got to keep it.
14:44:23 13
14:44:24 14 Did she get a hard copy in her hand which she was able to
14:44:27 15 retain?---I'm not sure.
14:44:29 16
14:44:29 17 Did you at one stage or did any members of Purana go into
14:44:34 18 her offices at one stage and ask for the return of the
14:44:36 19 statement?---I don't remember that.
14:44:37 20
14:44:37 21 You don't know, okay. If we can go to p.2 of this
14:44:42 22 document. You'll see that with respect to [REDACTED], if we
14:44:48 23 can highlight that part of it, "Statement still being taken
14:44:54 24 by various investigators although the main contact is with
14:44:58 25 Dale Flynn. DSU have not yet seen any statements but
14:45:02 26 believe to be very full and frank, eg admits [REDACTED]
14:45:07 27 [REDACTED] of [REDACTED] implicating various people.
14:45:16 28 From Jim O'Brien", he's your boss, correct?---Yeah, he was
14:45:22 29 in charge of Purana, yes.
14:45:23 30
14:45:24 31 "Happy to supply copies of [REDACTED] statements for
14:45:29 32 Ms Gobbo to check on the quiet before signing but better if
14:45:33 33 not openly involved in this process". Do you see that?---I
14:45:37 34 do.
14:45:38 35
14:45:39 36 What I'm suggesting to you is that that was the MO, that
14:45:42 37 was what Purana was using Ms Gobbo for and doing with
14:45:48 38 her?---No, well that's, that may be what Jim O'Brien did, I
14:45:53 39 don't know. I don't know what he said about that, but that
14:45:57 40 certainly wasn't my point of view and it certainly wasn't,
14:46:01 41 wasn't what I was dealing with Ms Gobbo in terms of her
14:46:05 42 being a barrister.
14:46:06 43
14:46:08 44 Yes. There were, do you accept - thanks Commissioner, you
14:46:14 45 can take that down. Do you accept that there were, there
14:46:23 46 was rumour going around that Ms Gobbo was in fact providing
14:46:30 47 assistance to Victoria Police?---At that point?

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14:46:35 1
14:46:35 2 At around that time and indeed before then?---I think it
14:46:40 3 starts to come out about that time, we get some intel from
14:46:43 4 the prison.
14:46:44 5
14:46:45 6 Yeah?---I'd have to find the exact reference but at around
14:46:52 7 that time. And I guess even on 4 July that SMS where she
14:46:58 8 indicates that she's still being harassed about him,
14:47:03 9 provides some indication. I think there's another informed
14:47:09 10 by, 7 July, there we go, informed by Corrections that
14:47:13 11 there's some intel that she's behind him talking to us.
14:47:17 12
14:47:18 13 Yes. But what I'm suggesting to you is those rumours had
14:47:21 14 been circulating for quite a while because when you spoke
14:47:24 15 to [REDACTED], even back and I don't think I've taken you to
14:47:32 16 this transcript, perhaps I'll do it now, but when you spoke
14:47:35 17 to him back in March with Mr O'Brien she was, he was
14:47:39 18 suggesting that she may well have been more interested in
14:47:43 19 helping the police out than other matters or other issues,
14:47:48 20 do you accept that?---Yeah, I always interpreted that she
14:47:51 21 was more interested in helping the police than the Mokbels
14:47:56 22 and the Williams. So helping, you know, in that, but not,
14:48:03 23 not facilitating the instructions of, for Carl and for
14:48:09 24 Tony.
14:48:09 25
14:48:10 26 Ultimately what he was wanting in circumstances where he
14:48:14 27 simply didn't know what the situation was, he wanted to
14:48:18 28 know whether someone was going to be on his side,
14:48:21 29 correct?---Yes.
14:48:22 30
14:48:23 31 And that's why he was asking you for your views, albeit
14:48:29 32 perhaps he shouldn't have, he should have been - I don't
14:48:33 33 know who else he can ask, but he was asking you for your
14:48:36 34 views, wasn't he, back in March?---Yes.
14:48:38 35
14:48:38 36 You've always maintained that you said to him, "Well look
14:48:42 37 you should have an independent lawyer"?---I said that at
14:48:46 38 the beginning but it became clear that, that he trusted
14:48:51 39 Nicola, that she knows all about him and that was his
14:48:56 40 preference, yeah.
14:48:56 41
14:49:02 42 Can I suggest that you at no stage discouraged him from
14:49:10 43 utilising her as a barrister?---Not beyond what we covered
14:49:16 44 off on yesterday.
14:49:17 45
14:49:18 46 Indeed, if anything, despite what you assert in your
14:49:21 47 statement, can I suggest to you that you, if not

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14:49:26 1 explicitly, implicitly encouraged him to continue using
 14:49:31 2 her?---I don't know that that's fair. I start off by
 14:49:37 3 saying, I say, "You're better off with independent
 14:49:41 4 representation" and I think Jim O'Brien says it again at a
 14:49:45 5 following meeting, so I'm not sure that that's fair.
 14:49:48 6
 14:49:49 7 What you said, I think you said much earlier on, maybe on
 14:49:54 8 the first meeting that you had with her, that insofar as a
 14:50:01 9 discussion was being had about her lawyers, you said as a
 14:50:07 10 general proposition it would be worthwhile him having -
 14:50:14 11 perhaps I should be fair and put it quite clearly, just
 14:50:18 12 excuse me?---I've got it here.
 14:50:21 13
 14:50:21 14 Yes?---This is him speaking, "Jim, I've got heaps of
 14:50:25 15 confidence in Jim, Nicola was good but she was, she has to
 14:50:29 16 give something, I can't, you know what I mean".
 17
 14:50:31 18 Yeah?---I said, "I personally think you are better off with
 14:50:34 19 independent, um, legal representation. That's what I
 14:50:37 20 personally think. Now I can't tell you to change your
 14:50:41 21 solicitors or anything because as far as I know they're
 22 both very good".
 23
 14:50:43 24 Yeah?---"What I'm saying is they're involved with a lot of
 14:50:46 25 other people."
 14:50:46 26
 14:50:46 27 Yes. I mean that's really as high you get to suggesting to
 14:50:56 28 him that he shouldn't be having Nicola on his team, isn't
 14:51:00 29 it?---Personally, yeah, I think Jim O'Brien mentions it
 14:51:04 30 again in the next meeting.
 14:51:06 31
 14:51:06 32 If we go to 23 March at p.82 of that transcript. In fact
 14:51:21 33 81. Mr O'Brien says, "Who are you going to use? What are
 14:51:26 34 you going to do as far as a solicitor goes?" He says,
 14:51:29 35 "Nicola, listen to this one" - - -
 14:51:31 36
 14:51:31 37 COMMISSIONER: Which transcript is this?
 14:51:33 38
 14:51:33 39 MR WINNEKE: Sorry, this is 23 March, Commissioner. I'll
 14:51:46 40 preface all of these questions around this proposition,
 14:51:48 41 that you know at this stage that Ms Gobbo is an agent of
 14:51:52 42 Victoria Police?---I know she's a registered human source.
 14:51:56 43
 14:51:56 44 A registered human source. And you know that she has been
 14:52:01 45 providing information to you - - -
 14:52:04 46
 14:52:04 47 COMMISSIONER: It's Exhibit 476.

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14:52:06 1
14:52:07 2 MR WINNEKE: Thanks Commissioner. Now since, well, in a
14:52:14 3 sort of an overt way since 2005, March of 2005, do you
14:52:19 4 agree with that?---Yes, I agree that she provided me some
14:52:23 5 information over, over that period in 2005.
14:52:27 6
14:52:28 7 And you'd been dealing with her now for quite a period of
14:52:33 8 time and I suggest you must have had the impression that
14:52:37 9 she was a person who was wanting to impress you and impress
14:52:42 10 police?---I'm not sure that I conceptualised it in that
14:52:54 11 fashion.
14:52:54 12
14:52:55 13 You knew that she was providing information about people
14:52:57 14 who were clients of hers?---I know she provided me with
14:53:02 15 information as we've gone through. I don't know what she
14:53:06 16 was providing since she was registered and speaking to the
14:53:13 17 SDU. So I do know what evidence we've gone through, yes, I
14:53:17 18 accept that.
14:53:18 19
14:53:18 20 If you were going to recommend, for example, a close family
14:53:22 21 members of yours, a solid independent lawyer, you'd be very
14:53:27 22 concerned about recommending someone like Nicola Gobbo, in
14:53:30 23 the circumstances, bearing in mind everything that you
14:53:34 24 knew?---Yeah, I don't think that I would. I'd probably go
14:53:41 25 for Colin Lovitt, he was good.
14:53:46 26
14:53:46 27 You couldn't possibly because you knew she was a police
14:53:50 28 agent?---What I do know is my family and friends are not
14:53:55 29 drug dealers associating with organised crime criminals.
14:53:58 30
14:53:58 31 No?---So with a long history with a particular barrister,
14:54:04 32 so I think the circumstances are not necessarily
14:54:06 33 comparable. I don't think we're comparing oranges with
14:54:11 34 apples.
14:54:11 35
14:54:11 36 I'm simply talking about if someone is saying to you, "I
14:54:16 37 want to have a barrister, do you think I can trust this
14:54:19 38 person?" You're effectively not discouraging and
14:54:24 39 encouraging him of the view that a person who you know to a
14:54:30 40 significant degree is on the side of the police, you're not
14:54:34 41 discouraging and on one view you're encouraging this fellow
14:54:38 42 to get the advice from this woman?---I start off by saying,
14:54:42 43 "I think you're better off with someone independent". When
14:54:47 44 he says things like, "You know, Nicola knows me, Nicola,
14:54:49 45 you know, I trust Nicola, Nicola knows everything about
14:54:53 46 me". You know, where he's putting those situations to me I
14:54:59 47 ultimately believe that she'll do the right thing for him

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14:55:03 1 because I saw that happen in [REDACTED] She didn't, which
14:55:07 2 I thought he was concerned about, I thought his concerns
14:55:10 3 were, "Is she going to go behind my back and start talking
14:55:15 4 to Tony and to Carl and others" and what I'm trying to say
14:55:20 5 to him in these conversations is, "I don't think she will".
14:55:24 6 That's - and in my mind I'm saying to myself, I know she
14:55:29 7 won't because she didn't do it to [REDACTED]

14:55:32 8
14:55:32 9 That's not the issue about telling other people. The issue
14:55:36 10 is to say to a person, "Look, this is the strength of the
14:55:40 11 case against you. I can tell you absolutely
14:55:45 12 independently", as you would expect Mr Lovitt to do, "This
14:55:47 13 is the strength of the case. We're not starting from a
14:55:51 14 position that, 'I'm an agent of Victoria Police and I have
14:55:53 15 a proclivity to push people over the line'", as appears to
14:55:56 16 have been the case when you look at all this stuff behind
14:55:59 17 the scenes. You're starting from the position that you
14:56:02 18 tell the person exactly the strength of the case against
14:56:04 19 them, the whys and the wherefores and you say to them, "You
14:56:06 20 have" or, "You have not got a prospect" and that's what you
14:56:09 21 want and that's what you would want as a person if you're
14:56:12 22 in trouble, do you agree with that?---I would want that,
14:56:16 23 yes.

14:56:16 24
14:56:17 25 It doesn't matter whether this person has been a crook for
14:56:22 26 years. Our system of justice requires that that person get
14:56:27 27 absolutely independent legal advice from a person who
14:56:30 28 doesn't have the sorts of hang up connections that Ms Gobbo
14:56:33 29 had with Victoria Police, do you accept that
14:56:37 30 proposition?---Can you put it again? My apologies.

14:56:39 31
14:56:40 32 It doesn't matter whether the people - I mean you regard
14:56:45 33 these people as long-time crooks. You regard them as
14:56:48 34 probably guilty. But are these people and does our justice
14:56:52 35 system require that these people have an absolutely
14:56:55 36 independent legal advisor to give them the warts and all
14:57:00 37 view of their case?---I never really thought it was, was my
14:57:04 38 position to do that. I mean we talked and raised around
14:57:09 39 legal practitioners, he asked me some questions, I said
14:57:14 40 what I thought.

14:57:15 41
14:57:15 42 Mr Bateson, it's not what I asked. I'm simply asking you a
14:57:19 43 simple question: do you believe that people, whether
14:57:21 44 they're crooks or not, are entitled - does our justice
14:57:25 45 system require they have an absolutely independent legal
14:57:28 46 practitioner?---I think what I'm - in my view, I'm not sure
14:57:34 47 that we agree on the independent. What I would say is that

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14:57:38 1 they have absolute right to seek legal counsel. That's an
14:57:42 2 absolute right. You know, if you're asking me, all right,
14:57:46 3 well when I'm facilitating those rights do I have to then
14:57:51 4 go the next step.

14:57:52 5
14:57:52 6 I'm not asking you that question. What I'm asking you just
14:57:56 7 as a member of the community, would you expect that a
14:57:58 8 person who goes to see a lawyer, doesn't matter who they
14:58:02 9 are, should be independent and not operating as an agent of
14:58:07 10 Victoria Police?---Look, ultimately - - -

14:58:12 11
14:58:12 12 It's a pretty simple question?---I think, well, I think you
14:58:16 13 can do two things. You know, would this ever happen again?
14:58:20 14 Clearly not. But my view is you can be a human source and
14:58:25 15 a barrister at the same time.

14:58:30 16
14:58:34 17 What I suggest to you is that you were quite content, and
14:58:40 18 indeed you regarded it as advantageous for you as a member
14:58:46 19 of Victoria Police in pursuing your actions, to have
14:58:49 20 Ms Gobbo as the lawyer for [REDACTED] ---Well, I think I've
14:58:54 21 answered this before but what I say to that is that's not
14:58:58 22 correct. It would have been easier for me to have someone
14:59:01 23 else because I would have to still go through the process
14:59:05 24 of protecting her and her safety. So quite frankly, it
14:59:12 25 would have been an easier job, because I always believed
14:59:15 26 that [REDACTED] was going to get there, and quite frankly if
14:59:19 27 he didn't I didn't care, so it would have been much easier
14:59:22 28 for me if it wasn't Ms Gobbo.

14:59:24 29
14:59:24 30 All right. Can I suggest this to you, you knew that Colin
14:59:28 31 Lovitt had appeared for [REDACTED] at committal. You knew that he
14:59:34 32 had an involvement in the matter. You knew when this
14:59:37 33 fellow was asking for your advice, and it was unwise of him
14:59:42 34 to do so I suggest, but when he was asking your advice you
14:59:47 35 could have said, "Well, you might want to go and have a
14:59:53 36 chat to Colin Lovitt because he's the fellow who knows all
14:59:58 37 about your case". That would have been an easy thing for
15:00:02 38 you to say?---I'm not his mate, I'm not his friend.

15:00:06 39
15:00:06 40 What, Colin's or [REDACTED] s.

15:00:09 41
15:00:10 42 But you're sitting here saying, "Look, no, no, I'm trying
15:00:11 43 to do the best, and I'm saying" - you're saying to the
15:00:14 44 Royal Commission, "Look, she knew all about him and she
15:00:17 45 knew about his background". He was asking you, "Do you
15:00:23 46 think I should engage this person?" You could have said to
15:00:27 47 him, "Well, I" - instead of you saying, "I think you should

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15:00:32 1 have independent representation, I wouldn't have Ms Gobbo
15:00:36 2 or you might want to have a chat to your QC about it". You
15:00:43 3 could have said that, couldn't you?---I could have said
15:00:45 4 that and the next question - - -
5
6 It would have been easy - - - ?--- - - - he would have
15:00:48 7 said, "Why is that" and I would have been left in the same
15:00:51 8 position.
15:00:51 9
15:00:51 10 Oh come off it. You could have said, "Yeah, speak to
15:00:56 11 Lovitt. Why is that? Because he's done your committal, he
15:00:58 12 knows about your case"?---Why would I do that when my
15:01:01 13 impression of Ms Gobbo at this stage in these proceedings
15:01:05 14 is that she acts honestly as a barrister when representing
15:01:09 15 her clients during these sorts of negotiations, so why
15:01:13 16 would I?
15:01:13 17
15:01:14 18 Why would you as a police officer when you know the person
15:01:17 19 is a police agent?---Well, I think we've covered off on
15:01:21 20 that bit.
15:01:22 21
15:01:22 22 Yeah, all right.
15:01:22 23
15:01:23 24 COMMISSIONER: You said you can be, your view is you can be
15:01:26 25 a human source and also a barrister at the same time. Can
15:01:29 26 you be a human source and a barrister acting for someone
15:01:35 27 who, when you've also acted for the key witness against
15:01:41 28 that person?---Well that, Your Honour, is, I guess, where I
15:01:48 29 feel it's a bit murky. We go through that conflict hearing
15:01:52 30 and ultimately Ms Gobbo is allowed to act at [REDACTED]
15:02:02 31 plea. So I get the concept but when I'm sitting there, you
15:02:08 32 know, in a room full of renowned legal minds and that's
15:02:12 33 allowed to happen I would say well perhaps their interests
15:02:16 34 have not diverged if one has pleaded and the other one has
15:02:21 35 pleaded or is involved in pleading.
15:02:23 36
15:02:24 37 Even when she's acting on the plea it's not publicly known
15:02:27 38 that she also acted for the key witness against the person
15:02:32 39 who's pleading guilty?---It might not be publicly known but
15:02:36 40 she says that during the conflict hearing, she acted for
15:02:40 41 one of the witnesses. And certainly it's known by the OPP,
15:02:44 42 if not the judge.
15:02:48 43
15:02:48 44 Right, I understand your evidence.
15:02:50 45
15:02:50 46 MR WINNEKE: No one knew that she was acting as a human
15:02:54 47 source providing information against her client?---No, not

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15:02:56 1 that I know of.

15:02:57 2

15:02:57 3 Look, you knew broadly what Posse was about. The idea was

15:03:01 4 to, that is the drug arm of Posse, to bring down the Mokbel

15:03:06 5 cartel?---Yes.

15:03:07 6

15:03:07 7 You knew that Gobbo was involved in that arm of the

15:03:13 8 operation?---Look, I don't know what she was providing but

15:03:17 9 it made sense because, you know, Jim O'Brien was in charge

15:03:22 10 of Purana phase 2 and during my dealings with Jim it seemed

15:03:30 11 to be that there was a clear connection, yep.

15:03:32 12

15:03:33 13 And so you knew that she was in effect providing

15:03:39 14 information to Victoria Police about people she was acting

15:03:42 15 for?---I don't know that I knew that. How do you say that?

15:03:52 16

15:03:52 17 She was representing Mokbel at the time in 2006, she was

15:03:56 18 representing Mokbel?---Yeah, but I don't know she's

15:03:59 19 providing information about Mokbel to the SDU.

15:04:00 20

15:04:00 21 You just said you had a general view about what Posse was

15:04:04 22 about was to attack the Mokbel cartel and associates of

15:04:07 23 Mokbel?---But there was a lot of people involved in that

15:04:11 24 criminal cartel.

15:04:12 25

15:04:13 26 You knew she was acting for Mokbel and you knew that the

15:04:16 27 idea of Posse was to bring down Mokbel?---I think I knew

15:04:21 28 she was acting for Mokbel, I'm not sure that I did.

15:04:25 29

15:04:25 30 You would have been aware at the time if she's acting for

15:04:28 31 Mokbel in the Supreme Court at the time when - - -?---Could

15:04:32 32 have been.

15:04:32 33

15:04:32 34 You would have?---Yep.

15:04:33 35

15:04:33 36 And he says to you, "I believe she's ultimately honest".

15:04:39 37 Sorry, you say, "I believe Nicola is ultimately

15:04:45 38 honest"?---Yes.

15:04:46 39

15:04:46 40 How can you say that about a person who you know is acting

15:04:50 41 as an agent of police and providing information against

15:04:53 42 people for whom she acts? How can you say that?---Look,

15:04:58 43 what I was referring to there, and I don't think it

15:05:01 44 necessarily excludes you from being honest by being a

15:05:04 45 registered human source. Having said that, what I'm

15:05:08 46 referring to there, and what I believe he is asking me, is

15:05:14 47 can she be trusted to keep what he's doing confidential?

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15:05:19 1 And based on my experience with how she conducted herself
15:05:23 2 during [REDACTED], she can be and that's the honesty I'm
15:05:27 3 referring to there.
15:05:28 4
15:05:28 5 All right. It's not the honesty that you'd expect though
15:05:31 6 of a legal practitioner who is going to honestly tell a
15:05:34 7 person about what their prospects are?---No, I believe she
15:05:39 8 would give him good advice.
15:05:41 9
15:05:42 10 If you're honestly saying to this Royal Commission, "I was
15:05:45 11 in telling him about my views about the honesty of Nicola
15:05:49 12 Gobbo, in other words I'm trying to provide him with honest
15:05:52 13 advice about whether or not he should use her", you would
15:05:55 14 have said, "I suggest that you should perhaps speak to your
15:06:02 15 silk". I mean if you fair dinkum had his interests at
15:06:04 16 heart that's what you'd say?---I'm not sure that I had his
15:06:08 17 interests at heart.
15:06:13 18
15:06:13 19 No, but that's what I'm saying. What's the point of saying
15:06:14 20 to the Commission, "I felt that she could and I felt that
15:06:18 21 she was honest"?---What I'm saying there is what I tell him
15:06:21 22 there is what I believe at that time. I think that's what
15:06:22 23 I'm trying to get across, Mr Winneke.
15:06:25 24
15:06:26 25 All right. So then the next time you have this sort of
15:06:32 26 conversation with [REDACTED] is when you and Kerley go and
15:06:40 27 see him I think on 16 June, is that right?---Yes.
15:06:44 28
15:06:54 29 At that stage he's still wanting to know, he's still
15:07:00 30 wanting to know whether or not he can rely on his lawyers,
15:07:07 31 isn't he?---I think he says here, "My solicitors don't know
15:07:19 32 you're here. Don't they? All right, we won't say
15:07:23 33 anything". That's the one we spoke about before, isn't it?
15:07:26 34
15:07:26 35 Yeah. You go and see him a couple of days later?---On the
15:07:29 36 5th.
15:07:30 37
15:07:30 38 On 22 June?---Yep.
15:07:33 39
15:07:33 40 And this is VPL.0005.0062.0305.
15:07:44 41
15:07:45 42 COMMISSIONER: I think that's Exhibit 475.
15:07:50 43
15:07:51 44 MR WINNEKE: Again he's saying to you, and if we go to, for
15:07:58 45 example, p.2, "Let's just work, can we work this out
15:08:04 46 because I want to just minimise my sentence but at the same
15:08:07 47 time I don't want to put the whole family", et cetera. You

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15:08:10 1 say, "Why did you ring Nicola? I thought you said you were
15:08:14 2 worried about her. I'm happy that you did, right". Do you
15:08:19 3 see that?---Sorry, which section?

15:08:22 4
15:08:24 5 Page 2?---I've got p.2 here. Have we got the right one up?
15:08:39 6 That's an earlier one actually.

15:08:41 7
15:08:42 8 I think it might be. Have we got 0005.0062.0305. If we
15:08:52 9 try that.

15:09:05 10
15:09:05 11 COMMISSIONER: 479. It's 22 June you want, isn't it?

15:09:20 12
15:09:20 13 MR WINNEKE: That is 22 June. That is in fact 22 June
15:09:23 14 although it's dated the 16th, if you see the first line you
15:09:28 15 see it says Friday 22 June, do you see that?---Yes, I see
15:09:33 16 that.

15:09:33 17
15:09:33 18 It's misdated but it appears to be 22 June. If we go, for
15:09:42 19 example, to - the discussion starts on page - you say,
15:09:56 20 "Well, there's not much use us taking statements if that's
15:10:00 21 what you're going to say because" - he's talking about
15:10:08 22 pleading, "I'm going to plead something, I'm going to still
15:10:12 23 deny that I had anything, I didn't plan it, and I'm being
15:10:17 24 straight out with you. If I planned it I'd say it because
15:10:19 25 I'm going to be pleading to it". You say, "Look, there's
15:10:21 26 not much use in us taking statements if that's what you're
15:10:25 27 going to say because I don't believe you, so it's no use me
15:10:28 28 taking a false statement in my eyes, you know. That's
15:10:30 29 something that you can say on your plea if you want, if you
15:10:33 30 want to plead guilty and you want". He says, "What do you
15:10:36 31 reckon? Colin Lovitt to say that on your behalf, then
15:10:40 32 that's something the judge can take into consideration,
15:10:43 33 that's something for you to say". Right, he says, "Let's
15:10:47 34 just work, can we work this out because I want to just
15:10:50 35 minimise my sentence but at the same time I don't want to
15:10:51 36 put the whole family, I'm going to tell you it will be the
15:10:55 37 whole truth, I'm not going to, you know, nothing to hold
15:10:59 38 back because I'm going to make sure that I hold nothing
15:11:03 39 back". You say, "Why did you ring Nicola? I thought you
15:11:06 40 said you were worried about her? I'm happy that you did,
15:11:11 41 right". You are happy that he did, aren't you, you're
15:11:15 42 telling him the truth there?---I'm happy that he's sought
15:11:19 43 legal advice, yeah.

15:11:20 44
15:11:20 45 And he says, "I trust her. I warned her, yeah". And then
15:11:26 46 if you go to p.6 there's a discussion about the sentence
15:11:33 47 and he's concerned about a sentence, if he pleads and shuts

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15:11:38 1 his mouth, "But at least I know that none of my family will
15:11:42 2 ever be touched". Clearly he's appreciating the fact that
15:11:46 3 he's in real difficulties and he needs to speak to a
15:11:49 4 lawyer?---Yep.
15:11:49 5
15:11:51 6 "Look", you say, "My opinion counts for nought really, I
15:11:56 7 know that. Nicola was saying the same thing counts for
15:11:59 8 nought but hers, not yours". You say, "Yeah, I mean the
15:12:02 9 only opinion that counts is the judge's". Again, if we can
15:12:09 10 just finish this up, this exercise about whether you were
15:12:12 11 actually encouraging or discouraging her. If we go to p.48
15:12:27 12 of the transcript. He's saying, "That's what I'm trying to
15:12:40 13 weigh up here. I'm only going to save three, four, five
15:12:43 14 years, I'm better just shutting up. [REDACTED] can see
15:12:50 15 everyone's happy" and he says he's [REDACTED] You
15:12:54 16 say, "All right. Leave it with us Monday and if we don't
15:12:58 17 come back", and he says, "Nicola will tell you something,
15:13:01 18 I'm pretty hard to understand". Ms Kerley says, "We don't
15:13:06 19 need Nicola to tell us that, you talk in riddles". He
15:13:10 20 says, "Nicola will tell ya, Nicola understands me?---Sorry,
15:13:14 21 that's - it's just moving up now.
15:13:15 22
15:13:15 23 "Because I'm worried if I'm going to get shafted". You
15:13:20 24 say, "Are you happy if I talk to Nicola about this? Yeah,
25 yep. Do you reckon that she'll say anything like if youse
26 have had". You say, "Look, to be honest I think Nicola is,
15:13:28 27 um, a very honest barrister". Can I say, that's a lie, you
15:13:33 28 accept that?---No, well look, I think you've got to look at
15:13:38 29 the question he asked before, "Do you reckon she'll say
15:13:44 30 anything?"
31
15:13:44 32 Yeah?---And that's where I'm saying that, "No, I don't
15:13:47 33 think she will", I believe she's honest in that regard.
15:13:51 34
15:13:51 35 In that regard she's honest. But you know what he's after
15:13:53 36 is legal advice, independent legal advice. He wants to
15:13:57 37 know what he should be doing?---I think what he's asking
15:14:01 38 there is just what I'm replying to, that will she say
15:14:06 39 anything.
15:14:06 40
15:14:07 41 You say, "No, I think she'll do the right thing. That's
42 why I want her because she knows what I'm all about, she
15:14:10 43 understands me. You know, Nicola knew all this. I've got
15:14:12 44 no problems with Nicola", you say. "Yeah, Nicola knows a
15:14:15 45 bit, a bit of it, and you know she's not stupid. Yep".
15:14:19 46 You say, "She's good. I think you can trust her"?---Yes.
15:14:23 47

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Can I suggest to you that she is one person that you know he can absolutely not trust to provide her with independent legal advice?---I think what he's asking there, and what I believed at that time, is that not only would she act in his best interest, but that she wouldn't tell the others about it and I believe that's what he's actually most concerned about. Will she actually inform other criminals about what he's doing and that's what I've based those comments on. And quite frankly I believe she acted in the best interest of her client for [REDACTED] and I believe she acted in the best interest of [REDACTED]. They both got significant discounts off their bottom sentence.

[REDACTED] was found guilty or pleaded guilty to murder?---Yes.

And was sentenced to years imprisonment?---[REDACTED] years.

[REDACTED] years' imprisonment. Mr Lovitt might well have said he's got a defence?---Mr Lovitt did say that, I remember we had a bet. But that was before a number of other things had occurred. [REDACTED] comes on board, he's worried about Carl Williams coming on board. He's now worried perhaps about Mr, I've forgotten the name that I'm meant to say, may provide a statement in regard to [REDACTED], the guy that was caught [REDACTED]

Yep?---So he's got all these things piling up. So ultimately in the end our case, and I thought this quite convincingly and you'll see that I even say when we meet with the OPP, "We don't need him, let's push ahead".

The point is this, it's not really a question of how strong you think the case is, the question is whether he gets proper independent legal advice by someone who is acting in his best interests and only his best interests. So it doesn't really matter whether or not you think that you've got a good case against him, do you follow that or not?---But my belief in our case helps me evaluate what good advice is perhaps.

I wonder if it's appropriate, Commissioner, to have a short break?

COMMISSIONER: Yes, all right. We'll have the afternoon break.

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(Short adjournment.)

COMMISSIONER: Yes, Mr Winneke.

MR WINNEKE: Thanks Commissioner. Now, in your statement you refer to the sequence of events and your diary entries where there's a reference to you communicating with Nicola Gobbo, correct? Is that right?---Sorry, could you say that again?

In your statement, you prepared your statement on the basis of a chronological sequence of communications with Ms Gobbo and other matters of relevance to your dealings with her, correct?---Yes.

And you talk about having a discussion with her in April. On 19 April there's a reference to a meeting that you had with O'Brien and the desire is to supply the transcript to 3838 with edits and have her approach [REDACTED] "No further approach from us", right, that's what you say in your notes and you've got a reference to that at paragraph 87 in your statement?---Yes.

Then the next - and you refer to her as 3838 there?---Yes.

You say that's only because of your communication with Mr O'Brien and he's using 3838 so you do the same thing, right? Is that right?---Yes, yes.

And we know also that you've had the discussion with Mr Jones earlier on and he said "be careful about your notes"; is that correct?---SDU show me that earlier?

I did?---You did.

So do you accept that?---I've got the note of the meeting where he says we're not - I accept it if you took me to it earlier.

Righto. I'm not going to do it again. The next thing is you have the - there's a reference to the communication with Ms Gobbo on 21 April. You speak to her by telephone, right?---Yes.

And in that communication she's referred to by the 3838 number, right?---Yes.

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15:46:22 1 On 15 June you're informed by DDI Ryan that he wants to
15:46:28 2 speak to you so you go out and speak to him on 15 June,
15:46:35 3 correct?---Yes.
4

15:46:36 5 Then on 21 June, and at that time he says that he wants to
15:46:41 6 assist or he's getting close to assisting, right?---I'm not
15:46:50 7 sure that we were getting much closer, it seemed to be
15:46:53 8 going around in circles.
9

15:46:56 10 All right. If we go to 19 June 2006, an ICR at p.336. At
15:47:22 11 the top, about a fifth of the way down, "[REDACTED] has lost
15:47:28 12 faith in barrister Lovitt. He has no money and can't get
15:47:33 13 Legal Aid funding. He wants to plead guilty. Human source
15:47:37 14 wanting investigators to speak to him before he goes to
15:47:40 15 court next week. Gavan Ryan is advised". It says, "DI
15:47:51 16 Ryan Op Purana advised re [REDACTED] Was spoken to last Friday and
15:48:00 17 aware of [REDACTED] Also advise re [REDACTED]', right.
15:48:05 18 So now he's expressing the view that he wants to plead
15:48:08 19 guilty, okay?---Yes.
20

15:48:13 21 Obviously accepting that that's what Ms Gobbo says to her
15:48:17 22 handlers, okay. Then if we go to an ICR at p.338, 21 June
15:48:27 23 2006. We see that they receive a call from Ms Gobbo at
15:48:38 24 three minutes past three - I'm sorry, three minutes past
15:48:46 25 one, I apologise for that. "[REDACTED] just rang, says
15:48:52 26 wants to sign statements for Purana. Ms Gobbo to ring DS
15:48:55 27 Bateson advising handler only", right. So she's in effect
15:49:00 28 now saying to the handler, "Look, you don't need to
15:49:03 29 communicate with Mr Bateson, I'm going to communicate with
15:49:06 30 him directly" because in effect she's going to tell you on
15:49:14 31 the record that he wants to plead guilty and she's going to
15:49:17 32 be involved in that process, right?---Yes.
33

15:49:22 34 She's in effect putting her lawyer hat on now and she's
15:49:25 35 going to out herself as a person who's acting for [REDACTED]
15:49:28 36 [REDACTED]---Yeah, I'm not sure that it goes that far, but - - -
37

15:49:38 38 No. It may well be that you're still a little bit
15:49:42 39 uncertain about it because he hasn't got over the line yet,
15:49:45 40 so what you do in your diary entry, if we go to your diary
15:49:50 41 on 21 June, what you say is, "I was contacted by 'legal
15:49:56 42 counsel' for [REDACTED] who stated that [REDACTED] wished to
15:50:02 43 see the police and was willing to sign statements",
15:50:10 44 right?---Yes.
45

15:50:14 46 You say your diary note doesn't identify who his legal
15:50:19 47 counsel is and you say you can't recall if the telephone

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15:50:22 1 call was from Ms Gobbo or someone else, but I think you'd
15:50:27 2 be prepared to accept that it was Ms Gobbo who called
15:50:30 3 you?---It seems to follow from the ICR.
4

15:50:34 5 You're a little bit cautious about writing her name down at
15:50:37 6 that stage so you write "legal counsel"?---Look, it seems
15:50:42 7 to vacillate, doesn't it? You know, I have one entry of
15:50:47 8 3838. I think over the page I saw her referred to again as
15:50:52 9 Nicola Gobbo.
10

15:50:53 11 If you go through it, I'm not asking you to do it, but when
15:50:59 12 you do through it you'll see that during the period where
15:51:00 13 there's a prospect that he might sign, come on board,
15:51:03 14 Ms Gobbo is used, I suggest, as an agent of police, she's
15:51:08 15 referred to as 3838, she's provided with the transcripts
15:51:10 16 and so forth. And she's referred to in that way quite
15:51:15 17 deliberately I put it to you?---Okay.
18

15:51:17 19 When it becomes the situation that she's now going to
15:51:19 20 appear for [REDACTED] on his plea, she's in effect putting
15:51:24 21 herself forward as his barrister and that's how you refer
15:51:28 22 to her, initially as legally counsel but then, we'll see as
15:51:33 23 things progress, you start calling her Nicola Gobbo
15:51:37 24 again?---Yeah, I think that's just an example of me using
15:51:40 25 various ways to record contact with her. I don't think I'm
15:51:46 26 willing to accept there's any deep and meaning in that. I
15:51:51 27 don't recall any complicated system of recording her name
15:51:55 28 that ever existed in my mind or indeed in an instruction
15:52:00 29 from anyone else.
30

15:52:01 31 Yeah, all right. Then we have the 22nd of June meeting
15:52:08 32 that I've taken you to previously and you refer to him
15:52:12 33 having spoken to Nicola Gobbo the previous day, you recall
15:52:17 34 that?---Yes.
35

15:52:20 36 Then you've had that discussion and in Ms Gobbo's court
15:52:26 37 book, if we can bring it up, it's MIN.0001.0014.0784 at
15:52:37 38 817. What we see there is on the 22nd, this is Ms Gobbo's
15:53:30 39 court book, you see the note with your name there?---Yes.
40

15:53:34 41 You're going to speak to the Director and obviously that's
15:53:41 42 the Director of Public Prosecutions?---Yes.
43

15:53:47 44 There's issues, "Tries to stop the murder on the day", do
15:53:53 45 you see that?---Yes.
46

15:53:53 47 And that was an issue that you had some concern about, that

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15:54:01 1 position that he was pursuing?---Yeah, I don't think I
15:54:04 2 accepted that as a statement of fact.
3
15:54:06 4 No. Being present at school?---I think that's with, if I
15:54:15 5 just interpret it - - -
6
15:54:18 7 Yeah, with AV, Andrew Veniamin?---Yes.
15:54:25 8
15:54:25 9 "To kill Moran but not going to do it", right?---Yes.
10
15:54:30 11 And there's a note that Mr Overland is looking at
15:54:34 12 transcript?---A transcript.
13
15:54:37 14 A transcript?---Yep.
15
15:54:38 16 And do you think the transcript is one of the transcripts
15:54:42 17 of the communication that you'd been having with [REDACTED]
15:54:46 18 [REDACTED]---So - no, I don't know. My note of that simply refers
15:54:52 19 to me speaking to Gobbo.
20
15:54:57 21 Yes?---Using her name.
22
15:54:58 23 Yes, you are?---"Advised her re [REDACTED] that he was
15:55:02 24 trying to suggest he tried to stop the murder. Advised
15:55:06 25 will be meeting with the OPP", not the Director.
26
15:55:09 27 Yeah?---And promised to get back to her. So that's all
15:55:13 28 I've got a note of that communication. The next day of
15:55:16 29 course - - -
30
15:55:17 31 Obviously, the point that I make - I tender it,
15:55:23 32 Commissioner, if it's not tendered already. It will
15:55:29 33 obviously need to be redacted.
34
15:55:33 35 COMMISSIONER: They've been tendered as a bundle.
36
37
15:55:37 38 MR WINNEKE: Yes.
39
15:55:37 40 COMMISSIONER: Exhibit 273. I think some might have been
15:55:40 41 tendered independently. Do you want to tender that one
15:55:44 42 independently?
43
15:55:46 44 MR WINNEKE: I don't think it's been referred to,
15:55:48 45 Commissioner. We'll tender it as an individual.
15:55:51 46
15:55:51 47 #EXHIBIT RC782A - (Confidential) Note from Ms Gobbo's court

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15:55:59 1 books for 22/6/06.

15:56:01 2

15:56:02 3 #EXHIBIT RC782B - (Redacted version.)

15:56:04 4

15:56:05 5 By this stage, Mr Bateson, in effect the blockage has more

15:56:08 6 or less passed because you'll see that in your diary at the

15:56:12 7 top of the page, that's on the 21st I think, the 22nd

15:56:20 8 sorry, there's a mention that you'd spoken to [REDACTED]

15:56:23 9 "confirmed willing to sign statements", right?---Yes.

10

15:56:31 11 Then you have your meeting with Overland and that's

15:56:35 12 referred to in your notes at 15:00?---Of that day?

13

15:56:42 14 "15:00 meeting AC Overland"?---Yes.

15

15:56:48 16 "Superintendent Grant re [REDACTED] Resolve not a truthful

15:56:51 17 witness. Provides little we did not know. Will inform OPP

15:56:52 18 and police of police view. Meeting with the OPP to be

15:56:57 19 confirmed". Then later on that day you speak to Ms Gobbo,

15:57:01 20 as we've just suggested, "Advised re [REDACTED] biggest

15:57:06 21 problem saying he was trying to stop the murder. Advised

15:57:09 22 will be speaking to the OPP tomorrow, Friday. Promised to

15:57:13 23 get back to her". That clearly is what we've just

15:57:17 24 tendered, the exhibit of her court book is a reference to

15:57:19 25 that communication with you, right?---Yes.

26

15:57:26 27 And then if we go further down the page. The following

15:57:31 28 day, the 23rd - I'm sorry, of your diary. There's an OPP

15:57:45 29 meeting with Geoff Horgan SC, Andrew Tinney, "Discussed

15:57:49 30 [REDACTED] resolved that we were not interested in his

15:57:54 31 'evidence' with respect to the [REDACTED] and [REDACTED] murders.

15:58:01 32 Did not believe he was witness of truth on this matter,

15:58:05 33 however if he was to plead and provide assistance on other

15:58:08 34 matters he would be entitled to a discount". You returned

15:58:14 35 to the office and you speak to Nicola Gobbo and you write

15:58:18 36 "Nicola Gobbo informed of the above and asked her to

15:58:21 37 contact Mr Horgan and discuss further", right?---Yes.

38

15:58:26 39 So at that stage it's quite obvious that she is going to be

15:58:29 40 on the record, she's going to be speaking to Mr Horgan, who

15:58:34 41 is the barrister representing police, and it will be a

15:58:40 42 matter of her conducting negotiations with the Crown on the

15:58:46 43 record?---I don't know if that's the first time that

15:58:50 44 Mr Horgan knows that though. Is that what we're saying?

45

15:58:56 46 It's an occasion, I'm suggesting to you, that occurs after

15:59:02 47 the events which we've just described. You've spoken to

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15:59:06 1 her and you've informed her of the above and you've said,
15:59:10 2 "You speak to Geoff Horgan about it", right?---Yep.
3
15:59:14 4 If we go to the ICR on 23 June 2006, which is at p.340.
15:59:49 5 You'll see at 13:38, further down, there's a reference to a
16:00:01 6 communication between Ms Gobbo and her handler "who relays
16:00:04 7 that she's spoken to Detective Sergeant Bateson this
16:00:09 8 morning and the [REDACTED] matter is going again as a plea
16:00:13 9 and he will make statements", do you see that?---Yeah, that
16:00:20 10 doesn't coincide with my note.
11
16:00:25 12 No?---So I suspect she might be referring to the
16:00:28 13 conversation that she had with me the night before.
14
16:00:31 15 Right?---Rather than the morning.
16
16:00:33 17 Right?---I don't speak to her on the 23rd, according to my
16:00:36 18 note, until 3.40 pm.
16:00:39 19
16:00:39 20 You speak to her at 3.40, "Informed of the above". She
16:00:51 21 says she's spoken in the morning and it may well be that
16:00:54 22 she did speak to you in the morning and you didn't make a
16:00:57 23 note of it?---Look, I don't think so. The notes are pretty
16:01:00 24 rare. I reckon she's referring to, or somehow it's been
16:01:04 25 misconstrued, but I think she's referring to the
16:01:07 26 conversation we had the evening before.
27
16:01:09 28 So what you do have a note of is your telephone call and
16:01:13 29 that's at 15:40?---15:40, yeah.
30
16:01:16 31 If we then go to ICR p.341, the following page. There's
16:01:21 32 another reference to a telephone call with you on the same
16:01:25 33 day. You'll see at 16:10 the handler receives a call,
16:01:32 34 phones back. "When [REDACTED] pleads guilty it will take weeks for
16:01:36 35 Purana to take the statements according to Detective
16:01:39 36 Sergeant Bateson. Ms Gobbo is seeing [REDACTED] at [REDACTED] Prison
16:01:43 37 next Monday. She stated that she was right again
16:01:50 38 predicting what an individual will do re [REDACTED].
16:01:55 39 Believes", et cetera, that's something else. But she's
16:01:56 40 telling her handlers, "I was right again". Do you see
16:02:02 41 that?---I do.
42
16:02:06 43 It suggests that there were - she's certainly referring to
16:02:08 44 two telephone communications that she's had with you on
16:02:10 45 that day. If we have a look at ICR p.342, this is on 24
16:02:26 46 June 2006. At 11.09 there's a communication, "Received
16:02:34 47 call, phone back. Re [REDACTED] matters. Ms Gobbo wants to

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16:02:38 1 find something in statements of [REDACTED] that would put
16:02:42 2 her in conflict with other clients and thus cannot appear
16:02:46 3 in court for him. Is confident can do this and will
16:02:50 4 continue to give him advice", do you see that?---Yes.
5
16:02:54 6 All right. If we go to 26 June 2006. You have a
16:03:06 7 discussion with Ms Gobbo; is that right?---Yes, I do. A
16:03:13 8 short one.
9
16:03:14 10 At 15:45?---15:45, yes.
11
16:03:20 12 It seems that Ms Gobbo - the Commission has records that
16:03:24 13 she's been out to see [REDACTED] and conducted a visit upon
16:03:31 14 him and there's contact in the ICRs which make it clear
16:03:35 15 that that was what she was planning to do. If we go to an
16:03:40 16 entry at 17:34?---Sorry, I didn't see the entry that you're
16:03:46 17 referring to. To another one - - -
18
16:03:50 19 Yeah, 9.21. If you want to go up, at the top of the page
16:03:55 20 you'll see - no, no. Further - the next page down.
16:04:02 21 "Ms Gobbo's going out to [REDACTED] today to see [REDACTED] and
16:04:06 22 [REDACTED] and will advise later", right?---Yes.
23
16:04:09 24 And she does that. She calls you at 15:45, but prior to
16:04:24 25 that it seems that at least she's spoken to her handler and
16:04:30 26 she said this, this is Ms Gobbo, the barrister, telling her
16:04:36 27 informer handler this, "That solicitor Jim Valos tried to
16:04:40 28 talk him out of pleading guilty". Solicitor Valos is the
16:04:47 29 solicitor who you were aware was on the record acting for
16:04:51 30 [REDACTED] correct?---Yes, I accept that.
31
16:04:59 32 And Ms Gobbo was passing on the fact that he was trying to
16:05:04 33 talk him out of pleading guilty. "Ms Gobbo was meeting
16:05:07 34 with the DPP to arrange the basis of the plea which will be
16:05:10 35 heard Wednesday, Thursday next week. Then he will make
16:05:14 36 statements which will take weeks. His sentencing will be
16:05:20 37 after everything is finished". Do you see that?---Yeah, I
16:05:25 38 don't think that actually sits up alongside what [REDACTED]
16:05:30 39 said to us earlier, of course.
40
16:05:32 41 Yes?---About Jim Valos being the one that convinced him.
42
16:05:37 43 It may or may not but what we see here is and that's - what
16:05:45 44 she's clearly telling her handler on this occasion is that
16:05:49 45 Valos is trying to talk him out of it?---Yeah, which
16:05:53 46 doesn't coincide with what he says as a witness though,
16:05:58 47 does it? I don't think he says that. In fact when he

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16:06:03 1 talks to us he says that it's Jim that convinced him.
2
16:06:10 3 It may or may not be the case that that's what he said
16:06:14 4 months earlier and, as you say yourself, he's a man who's
16:06:19 5 given to flights and impulses, do you accept that?---Yes.
6
16:06:23 7 And it may well be that one should take note of what
16:06:27 8 Mr Valos, who has been around for a long time, an
16:06:32 9 experienced criminal solicitor, is saying and it appears to
16:06:35 10 be the case that she's saying to [REDACTED] that he
16:06:41 11 shouldn't be pleading guilty?---Well look - - -
12
16:06:45 13 Valos is saying that?---Well I don't - - -
14
16:06:48 15 That's what [REDACTED] is saying to Ms Gobbo?---No, that's
16:06:51 16 what Ms Gobbo is saying to her handlers.
17
16:06:55 18 Yeah, I follow that. She's relaying what she's heard, it
16:06:59 19 seems?---Or she's trying to create an impression with her
16:07:05 20 handlers that she's been more - had more impact. Because
16:07:10 21 what we do know is when [REDACTED] talks about it in these
16:07:15 22 conversations he says that Jim is the one who convinced him
16:07:18 23 early on. So it doesn't seem consistent. So I can't say
16:07:24 24 that that's exactly what's happened but what I can say is
16:07:27 25 it's a scenario that's equally as possible to the one
16:07:31 26 you're putting to me.
27
16:07:32 28 It may or may not be the case, but what you do have is at
16:07:36 29 least there's information which suggests that there ought
16:07:40 30 be some concern about what's going on here. If that's
16:07:45 31 correct, I mean if it's correct. If it's correct that
16:07:48 32 Ms Gobbo is telling her handler that [REDACTED] has told her that
16:07:54 33 Valos says he shouldn't be pleading guilty, it's a matter
16:07:57 34 of concern. Do you accept that?---I'm sorry, that - - -
35
16:08:12 36 Do you accept that it may well be a matter that is of some
16:08:17 37 concern, at least to this Royal Commission, if it appears
16:08:20 38 to be the case that there are people other than Ms Gobbo
16:08:23 39 who are suggesting that he should be pleading guilty, but
16:08:27 40 there are other people such as Mr Valos, who is the
16:08:31 41 solicitor on the record, suggesting that he shouldn't
16:08:33 42 be?---Yeah, I'm not convinced that that's what happened but
16:08:35 43 I understand your proposition, I can see it would be of
16:08:39 44 interest to the Commission.
45
16:08:40 46 Equally, when you've got a note that - again assuming what
16:08:48 47 Ms Gobbo says to her handlers is correct, that [REDACTED] is

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16:08:54 1 saying, "If Colin Lovitt says I'm fucked, well then I want
16:09:00 2 to hear it. And if that's the case well I'll take his
16:09:05 3 advice"?---Does he say that?
4
16:09:08 5 I'll take you to it. I did. Can we go to p.261, 23 April
16:09:31 6 2006?---I don't have a note of that being passed on to me.
7
16:09:34 8 I'm not suggesting it has been passed on to you,
16:09:37 9 Mr Bateson. 23 April 2006 at ICR 261, [REDACTED]
16:09:53 10 rang?---Yes, I do remember that. Sorry, got that, yep.
16:09:55 11
16:09:56 12 "Wants Ms Gobbo to speak to barrister Lovitt and get his
16:10:00 13 opinion if [REDACTED] is fucked. If so, likely to assist
16:10:11 14 Purana. She believes Lovitt will affirm this. He's
16:10:16 15 depressed and needs a push to come on board". That's the
16:10:19 16 troubling conversation I took you to before?---Yes, you
16:10:25 17 did.
18
16:10:26 19 The Commission does have a statement from Mr Lovitt and if
16:10:28 20 it was the case that Mr Lovitt had not been consulted about
16:10:32 21 it, that would be a concern, do you accept that?---Not
16:10:39 22 necessarily to me. I don't know any of this at this point
16:10:46 23 and what I do know is he's asking, he's looking for some
16:10:52 24 legal advice and he gets it. So I'm not sure that I'd be
16:10:57 25 concerned that Mr Lovitt didn't speak to him.
26
16:11:00 27 You certainly weren't going to advise him to speak to
16:11:08 28 Mr Lovitt, correct? You had an opportunity to do so and
16:11:11 29 yet you didn't?---I'm not sure that it would have even
16:11:13 30 occurred to me.
31
16:11:14 32 No. What you did do was certainly, I suggest, if not
16:11:20 33 encouraged, certainly didn't discourage him from speaking
16:11:26 34 and only speaking to Gobbo?---Only what I've answered
16:11:29 35 before.
36
16:11:29 37 Yeah, all right. You accept that Jim Valos was an
16:11:37 38 instructing solicitor, had been around for quite a few
16:11:40 39 years and he'd briefed Mr Lovitt in 2005 to appear for
16:11:45 40 [REDACTED] at the committal hearing of [REDACTED]
16:11:48 41 [REDACTED] for the murders of [REDACTED] and
16:11:53 42 [REDACTED] at the [REDACTED]?---Yes.
43
16:11:56 44 And he did appear and indeed cross-examine you?---Yes.
45
16:12:03 46 For some time at the Magistrates' Court?---Yes.
47

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16:12:08 1 Yeah, all right. He says that as far as he was concerned -
16:12:19 2 he did cross-examine - ultimately there was a Basha
16:12:25 3 inquiry, wasn't there, and [REDACTED] was called at the
16:12:29 4 Basha inquiry, do you accept that?---Look, if you've got a
16:12:35 5 transcript of it I'm willing to. I don't have a memory of
16:12:38 6 it.

16:12:38 7
16:12:38 8 You don't have a memory of it. Right, well I put it to you
16:12:42 9 that you did. He said, this is what he says in his
16:12:46 10 statement, "Regarding the strength of the case against
16:12:49 11 [REDACTED], there was a lot of evidence emanating from key
16:12:53 12 witness, [REDACTED], against [REDACTED] and [REDACTED], more
16:13:01 13 so than against his client, and you agree with
16:13:08 14 that?---There was stronger evidence against [REDACTED] and
16:13:12 15 mainly because they admitted it.

16:13:15 16
16:13:15 17 There was admissions. He says that, "Insofar as [REDACTED]
16:13:24 18 was concerned he was in a lot of trouble evidentially
16:13:29 19 speaking and now [REDACTED] was a Crown witness impugning
16:13:35 20 him, but the case against my client", he says, that is
16:13:38 21 [REDACTED], "revolved largely around the [REDACTED]
16:13:43 22 allegations that he, [REDACTED] informed [REDACTED] where
16:13:47 23 [REDACTED] was likely to be around [REDACTED], that is at
16:13:51 24 [REDACTED], and once drove in a car with [REDACTED] and [REDACTED] to
16:13:58 25 see if indeed [REDACTED] was there. He was said by my client to
16:14:05 26 be on [REDACTED]'s at [REDACTED]'. That
16:14:11 27 was the situation with regard to the evidence insofar as [REDACTED]
16:14:14 28 was concerned?---I don't think that's a fair summation. I
16:14:19 29 think we also had evidence of him [REDACTED] that
16:14:30 30 was used, I think from early on, as I remember it.

16:14:30 31
16:14:34 32 On the basis of statements made by a co-accused?---Yeah,
16:14:36 33 but you didn't mention that part.

16:14:36 34
16:14:38 35 I'm simply putting to you what's in - - - ?---Okay. I
16:14:42 36 think the case was a lot stronger than what Mr Lovitt just
16:14:47 37 put in that paragraph.

16:14:47 38
16:14:48 39 As you pointed out, there was a difference in views about
16:14:51 40 it but ultimately he made a no case - he made the
16:14:55 41 submission and he was committed to stand trial. But he
16:14:59 42 said he had a gentleman's bet with the informant, Stuart
16:15:03 43 Bateson, having told him "that I did not believe they could
16:15:05 44 obtain a conviction against my client on that evidence".
16:15:08 45 So that was the bet that he had with you?---Yes, but
16:15:12 46 that's - - -
47

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16:15:13 1 You never collected you said?---That's before - - -
2
16:15:19 3 Before ■ came on board?---Before ■ came on board.
4
16:15:23 5 No, I understand that?---Before his bail application is
16:15:25 6 refused, before Carl Williams is working in the background
16:15:27 7 to possibly make his own deal. There's a lot that's
16:15:31 8 happened since Mr Lovitt and I spoke about that case.
9
16:15:35 10 Yeah. In any event, he says that he appeared in various
16:15:45 11 pre-trial mentions and is it the case that you understood
16:15:49 12 that he had appeared before Justice King on ■
16:15:53 13 2005 and then in various hearings in March - February,
16:15:59 14 March and April of 2006, is that your recollection?---Could
16:16:05 15 have been. I'd have to go through the - I was just looking
16:16:10 16 at my supplementary statement for a mention of him. But I
16:16:16 17 don't have a recollection of him being involved in the
16:16:19 18 Supreme Court but he may well have been. He's usually
16:16:22 19 quite memorable, so.
20
16:16:26 21 And he says that during the course of those appearances he
16:16:29 22 learned that ■ had rolled and, "At one of the last
16:16:33 23 two of the pre-trial mentions we had a Basha hearing in
16:16:36 24 front of King J and he cross-examined ■ as he was
16:16:48 25 now a Crown witness against both ■ and my client".
16:16:56 26 So I take it you'd accept that that occurred?---Well, yeah,
16:16:59 27 if he's got a memory of it. I don't.
28
16:17:04 29 One thing is clear, that certainly ■ had been in
16:17:06 30 possession of the statement of ■ for a significant
16:17:10 31 period of time?---Yes.
32
16:17:12 33 And was therefore the subject, able to be attacked, if you
16:17:19 34 like, on the basis of having that statement and having the
16:17:22 35 ability at least to craft a statement and craft his
16:17:25 36 evidence around that, do you accept that?---Yes, you have
16:17:29 37 that statement.
38
16:17:32 39 And obviously - and what he says is this, "As to the
16:17:41 40 evidence that ■ wanted to speak to me before he
16:17:45 41 pleaded guilty to establish whether he was fucked, did I
42 ever tell him this or words like it, did he have a
16:17:52 43 defence?" Mr Lovitt says, "After the Basha inquiry I was
16:17:55 44 now aware that ■ was somewhat more articulate and
16:18:00 45 intelligent than what I'd previously taken him to be.
16:18:03 46 However I still strongly believed that ■ had a
16:18:07 47 quite reasonable chance of being acquitted. Although there

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16:18:10 1 were now two accomplices who implicated [REDACTED] they
16:18:15 2 could not corroborate each other and both had a myriad of
16:18:20 3 reasons to lie to the police and present them with what
16:18:23 4 they wanted them to say. [REDACTED] was what he
16:18:26 5 demonstrated himself to be at the committal in the witness
16:18:31 6 box". He described him as a push over?---[REDACTED]?
7
16:18:33 8 [REDACTED] No doubt you'd have views about that, but that
16:18:37 9 was certainly the view of experienced senior counsel, do
16:18:40 10 you accept that?---I accept that may well be his view. I'm
16:18:45 11 not sure that I accept the proposition considering what
16:18:47 12 occurred during the trial.
13
16:18:49 14 Yeah?---He was in the witness box for I think about ten
16:18:54 15 days.
16
16:18:54 17 Yeah?---And Con Heliotis, I don't think would argue, that
16:19:02 18 he found him to be a push over as a witness.
19
16:19:07 20 That was a case of the death of [REDACTED] where there was
16:19:12 21 just a wealth of evidence against the people who were
16:19:16 22 responsible for that killing, do you accept
16:19:19 23 that?---Certainly there was a lot of evidence against
16:19:25 24 [REDACTED]
25
16:19:30 26 In the case of [REDACTED]. "He was surrounded with evidence
16:19:34 27 of his killing of [REDACTED] which I would have been able to
16:19:40 28 legally put to him in cross-examination, he was at [REDACTED]
16:19:45 29 [REDACTED] with the same man and used the same modus as in [REDACTED]
16:19:48 30 [REDACTED] so [REDACTED] was desperately in need of something to
16:19:51 31 reduce his likely sentence, he needed friends in the police
16:19:54 32 and the Crown". That's what Mr Lovitt says. "I never
16:20:01 33 contemplated advising my client to consider pleading guilty
16:20:04 34 to murder, or of offering a deal. Nor was anything along
16:20:09 35 those lines raised with me by solicitor Valos at any stage
16:20:13 36 whatsoever", he says. What he's saying effectively is he
16:20:16 37 was never, it was never put to him that [REDACTED] wanted to
16:20:22 38 know whether he was fucked?---So does he - I'm sorry for
16:20:28 39 exploring this question, but does he get contacted by
16:20:31 40 [REDACTED]?
41
16:20:33 42 What he said is he had not heard at any stage whatsoever
16:20:39 43 anything along those lines, that it had been raised.
16:20:42 44 Subsequently he says, "On the last appearance on [REDACTED]
45 something came up which meant that the case needed to be
16:20:53 46 delayed from its trial date". He goes on and says, "A
16:20:57 47 remark was made at the Bar table by the Crown which was the

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16:21:01 1 first hint that I got that [REDACTED] was thinking of
16:21:05 2 becoming a Crown witness. I dismissed it as it was the
16:21:09 3 first I had heard of it and his solicitor had never
16:21:12 4 remotely intimated such a turn around. I put it down to
16:21:13 5 scuttlebutt and Valos said nothing about it to me".
16:21:17 6 There's no suggestion at all that he had been in
16:21:19 7 communication with [REDACTED] and conveyed the impression
16:21:21 8 that his case, that he had no defence and that he was
16:21:30 9 fucked?---I'm sort of left wondering why Mr Valos didn't,
16:21:34 10 seeing Mr Valos approached us with Ms Gobbo, so I'm kind of
16:21:38 11 left wondering why Mr Valos didn't say - - -
12

16:21:41 13 Mr Bateson - - - ?---"Our client is contemplating pleading
16:21:47 14 guilty". I suspect there must have been a reason why
16:21:51 15 Mr Valos didn't do that. I don't know what - - -
16

16:21:52 17 Mr Bateson, there may be all of sorts reasons, who knows?
16:21:56 18 But what is clear is that senior counsel is saying it was
16:22:02 19 never suggested to him that he should plead and roll. And
16:22:05 20 ultimately he's saying that if he was asked he wouldn't
16:22:09 21 have advised it. In that circumstance, do you accept that
16:22:11 22 it's a troubling situation, knowing what you know?---Look,
16:22:20 23 I don't know - I certainly didn't know any of that at the
16:22:25 24 time and our views on the Crown case are quite different.
25

16:22:31 26 Clearly they are. You've got your views about it but
16:22:35 27 you're not an independent legal advisor, are you?---But I
16:22:39 28 wouldn't have necessarily been worried that Mr Lovitt
16:22:42 29 disagreed with me on that.
30

16:22:44 31 Yes, but what you - - - ?---What was concerning that, you
16:22:49 32 know, if you wanted to seek legal advice he was able to do
16:22:54 33 that, either through Jim Valos, who he first approaches,
16:22:57 34 who he says convinced him to roll, and, you know, if he had
16:23:02 35 have wanted to speak to Mr Lovitt I'm sure he could have.
36

16:23:05 37 In any event, what he says is, "Sometime after April 4 he
16:23:11 38 learned his client had indeed rolled, indicated an
16:23:14 39 intention of pleading guilty to murder, and made statements
16:23:18 40 implicating [REDACTED]. I was quite shocked, twice over.
16:23:21 41 One, because he did so, when I got no inkling of it from
16:23:24 42 him, from memory, one of the [REDACTED] at the [REDACTED]
16:23:26 43 [REDACTED], and I thought they were [REDACTED]. They
44 joked and chatted together [REDACTED] two, because Valos
16:23:33 45 made no mention of it all to me, nor gave me cause for the
16:23:37 46 slightest suspicion. At no stage was I consulted or asked
16:23:41 47 to speak to [REDACTED] I was never asked for my opinion".

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16:23:45 1 Whether or not that's because of some reason of Mr Valos',
16:23:49 2 we simply don't know. What we do have here is a suggestion
16:23:53 3 that the person who had a very good idea of the strength of
16:23:57 4 the case wasn't consulted, in circumstance where it appears
16:24:01 5 that the person [REDACTED] who's saying to his so-called
16:24:06 6 barrister, "Can you please find out what Colin Lovitt says
16:24:12 7 about this". Do you accept that that's a concerning
16:24:15 8 matter?---I don't think it's something for me to be
16:24:18 9 concerned with.

10
16:24:22 11 Knowing all that you do know about what's occurred here and
16:24:26 12 knowing of the importance for our system of justice that
16:24:30 13 someone has an independent legal representative, knowing
16:24:33 14 all you know, are you prepared to concede that what
16:24:36 15 occurred was unfortunate and concerning?---No, I think when
16:24:41 16 I look at it I look at it through the lens that he got
16:24:45 17 legal advice through his solicitor, Jim Valos, who he says
16:24:51 18 encouraged him to roll, and he also got legal advice from a
16:24:56 19 barrister who I believed at that time, and even still now,
16:25:01 20 acted in his best interests.

21
16:25:02 22 So if confronted with exactly the same circumstances as you
16:25:07 23 were confronted with then next week would you do exactly
16:25:10 24 the same thing as you've done?---That's, I think,
16:25:14 25 impossible to answer because so much more is known to me
16:25:18 26 now than it was then.

27
16:25:24 28 The question I put to you before was knowing everything
16:25:26 29 that you know now, are you prepared to concede that it was
16:25:28 30 concerning, that which occurred, and you're not prepared
16:25:30 31 to concede it?---Look, I probably should say that, you
16:25:32 32 know, I thought I got across that it was at that time.
16:25:36 33 What I know now about Ms Gobbo, I would have been a lot
16:25:41 34 more concerned. But I didn't know those things then and I
16:25:44 35 know those things now, so yes, I don't think I would do the
16:25:48 36 same thing again.

37
16:25:49 38 Yes?---I want to make that clear. But what I thought at
16:25:52 39 the time is that he wanted some legal advice and he got it
16:25:56 40 from people that he trusted and they were qualified to give
16:26:00 41 it.

42
16:26:01 43 Well, as far as you were concerned a person who is a police
16:26:09 44 informer acting against her clients, and you knew that
16:26:14 45 much, you knew that she was acting against the Mokbels, or
16:26:16 46 providing information against them, that's okay to have
16:26:19 47 that sort of person providing advice to people who face

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16:26:22 1 years and years in prison?---Well I don't accept it apart
16:26:26 2 from the initial information she gave me about Solicitor 2,
16:26:31 3 that I knew she was giving information about the Mokbels.
4
16:26:44 5 Can we have a look at CNS.0001.0003.1264.
6
16:26:51 7 COMMISSIONER: Did you want to tender that statement?
8
16:26:58 9 MR WINNEKE: Yes, I do, Commissioner, I'll tender that
16:27:01 10 statement.
16:27:01 11
16:27:01 12 COMMISSIONER: There doesn't need an A and a B I don't
16:27:03 13 think.
14
16:27:05 15 MR WINNEKE: I think there will need to be some redactions.
16:27:05 16
16:27:06 17 #EXHIBIT RC783A - (Confidential) Statement of Colin Lovitt
16:27:07 18 dated 4/11/19.
16:27:07 19
16:27:08 20 #EXHIBIT RC783B - (Redacted version.)
16:27:52 21
16:27:53 22 COMMISSIONER: I'd like the PII done that as soon as
16:27:56 23 possible.
16:27:56 24
16:27:56 25 MS ENBOM: Yes, Commissioner.
26
16:28:45 27 MR WINNEKE: That note we see in the ICRs, it's a
16:28:49 28 communication between Ms Gobbo and the handler and she says
16:28:52 29 that on that date, 26 June 2006, solicitor Jim Valos tried
16:28:58 30 to talk him out of pleading guilty. We can see that on
16:29:01 31 that date at least from the prison records, that Ms Gobbo
16:29:06 32 and Mr Valos attended and had a professional visit upon
16:29:11 33 [REDACTED] on that day. If what she's telling her handlers
16:29:20 34 is correct, it appears to be being told very soon after the
16:29:27 35 event had occurred. I tender that, Commissioner.
16:29:32 36
16:29:36 37 #EXHIBIT RC784A - (Confidential) Archive visit inquiry of
16:29:38 38 26/6/06 from the prison records.
16:29:44 39
16:29:45 40 #EXHIBIT RC784B - (Redacted version.)
16:29:46 41
16:29:55 42 Thanks, Commissioner, I note the time. I gather my learned
16:30:07 43 friend has a matter to raise.
44
16:30:08 45 COMMISSIONER: Yes.
16:30:09 46
16:30:09 47 MS ENBOM: Commissioner, I've prepared a bundle of the

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16:30:11 1 drafts of [REDACTED] statements.
2
16:30:14 3 COMMISSIONER: Yes.
16:30:14 4
16:30:15 5 MS ENBOM: And I have the metadata for some of the
16:30:18 6 statements. I've provided the bundle to counsel assisting.
7
16:30:24 8 COMMISSIONER: Right.
16:30:24 9
16:30:24 10 MS ENBOM: I would like to provide the bundle and the
16:30:27 11 metadata to Mr Bateson.
12
16:30:31 13 COMMISSIONER: Yes.
16:30:32 14
16:30:32 15 MS ENBOM: He has not had an opportunity to look at those
16:30:35 16 documents and as they were only located overnight and today
16:30:38 17 I haven't had an opportunity either to take instructions
16:30:41 18 from him, so I would also like an opportunity to take
16:30:45 19 instruction from him oversight. I'd like to ask him
16:30:48 20 questions such as did he create any of them? If so, when?
16:30:51 21 If he didn't, does he know who did? And so on.
22
16:30:54 23 COMMISSIONER: All right. Presumably you'll put that in a
16:30:56 24 statement to be produced for tomorrow?
16:31:01 25
16:31:02 26 MS ENBOM: Prepare a written statement overnight?
27
16:31:04 28 COMMISSIONER: Yes, of those details.
16:31:05 29
16:31:06 30 MS ENBOM: Yes, okay.
31
16:31:07 32 COMMISSIONER: Are you content with that?
33
16:31:09 34 MR WINNEKE: I have no exception to Ms Enbom getting
16:31:14 35 instructions about the documents which have been produced.
16:31:17 36 I don't know who produced the documents to her and I don't
16:31:20 37 know whether they've got anything to do with Mr Bateson at
16:31:23 38 all. If they don't, I don't see why there should be
16:31:28 39 discussion with him about it whilst he's under
16:31:31 40 cross-examination. If these documents have been produced
16:31:33 41 from someone else, and Mr Bateson seems to have given
16:31:36 42 evidence that he doesn't know anything about drafts or
16:31:39 43 anything like that. But I think she's entitled to get
16:31:41 44 instructions from whoever provided the documents and
16:31:43 45 whoever it was who was able to produce the documents from a
16:31:48 46 database. It seems not to have been Mr Bateson. I don't
16:31:53 47 see what basis there is for having a discussion with him

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16:31:55 1 about it.
2
16:31:58 3 COMMISSIONER: I think that's - - -
16:31:59 4
16:32:00 5 MS ENBOM: As I submitted before lunch, Commissioner, the
16:32:02 6 documents were located by Victoria Police and provided to
16:32:04 7 me. That's where they came from. And it might be that I
16:32:08 8 want to re-examine him about the documents.
9
16:32:11 10 COMMISSIONER: You can do that.
11
16:32:13 12 MR WINNEKE: I have no objection to Ms Enbom speaking to
16:32:15 13 him after cross-examination's completed.
14
16:32:17 15 COMMISSIONER: Yes. That's probably the best. But it
16:32:20 16 would also be useful - did you want to tender this bundle
16:32:24 17 of documents now?
18
16:32:26 19 MS ENBOM: I don't seek to tender them at the moment. I
16:32:29 20 haven't looked at them, I haven't, as I submitted, taken
16:32:33 21 any instructions in relation to them.
22
16:32:35 23 COMMISSIONER: All right. Probably what would be good is
16:32:36 24 if you could prepare a statement saying how the documents
16:32:39 25 came to your field of knowledge.
16:32:44 26
16:32:44 27 MS ENBOM: Yes.
28
16:32:45 29 COMMISSIONER: What the background is, who provided them
16:32:47 30 and under what circumstances. That would be helpful.
16:32:49 31
16:32:50 32 MS ENBOM: Yes.
33
16:32:50 34 COMMISSIONER: I think it's probably - at this stage it's
16:32:54 35 probably best that you don't discuss this in
16:32:56 36 cross-examination, whilst this witness is under
16:32:58 37 cross-examination, certainly you can deal with it in
16:33:01 38 re-examination. Presumably Mr Winneke will deal with it
16:33:04 39 tomorrow and then you'll be able to deal with it in
16:33:07 40 re-examination.
16:33:08 41
16:33:09 42 MS ENBOM: Yes. As I understood Mr Winneke's submission,
16:33:11 43 if Mr Winneke does cross-examine on the documents, then at
16:33:14 44 that point I would be given an opportunity to seek
16:33:17 45 instructions before the re-examination, I think that's
16:33:20 46 what's been put.
47

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16:33:21 1 MR WINNEKE: Yes.
16:33:23 2
16:33:26 3 MS ENBOM: Am I permitted, Commissioner, to get
16:33:29 4 instructions in relation to other documents that have been
16:33:33 5 produced in the running of the cross-examination, such as -
16:33:36 6 I haven't read it, I don't know if there's any need to get
16:33:39 7 instructions, but the statement of Colin Lovitt dated 14
16:33:43 8 November that I've just been handed for the first time?
16:33:46 9
16:33:46 10 MR WINNEKE: Commissioner, again I'm perfectly content for
16:33:49 11 Ms Enbom to speak to Mr Bateson about that prior to having
16:33:54 12 to re-examine him.
13
16:33:55 14 COMMISSIONER: All right then. There's no problem with
16:33:57 15 that.
16:33:58 16
16:33:58 17 MS ENBOM: Thank you, Commissioner.
18
16:34:00 19 COMMISSIONER: That's the only document that you wanted to
16:34:03 20 discuss with the witness whilst he's under
16:34:04 21 cross-examination?
16:34:05 22
16:34:06 23 MS ENBOM: Mr Winneke has previously given me permission to
16:34:09 24 speak to the witness about the depositions, so there are no
16:34:12 25 other documents.
26
16:34:12 27 COMMISSIONER: All right then. We'll adjourn until 9.30.
16:34:18 28
16:34:45 29 <(THE WITNESS WITHDREW)
16:34:46 30
16:34:48 31 ADJOURNED UNTIL FRIDAY 22 NOVEMBER 2019
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