

ROYAL COMMISSION INTO THE MANAGEMENT
OF POLICE INFORMANTS

Held in Melbourne, Victoria
On Monday, 9 December 2019

Led by Commissioner: The Honourable Margaret McMurdo AC

Also Present

Counsel Assisting: Mr C. Winneke QC
Mr A. Woods
Ms M. Tittensor

Counsel for Victoria Police Mr S. Holt QC

Counsel for State of Victoria Mr T. Goodwin

Counsel for Nicola Gobbo Mr R. Nathwani

Counsel for DPP/SPP Ms K. O'Gorman

Counsel for CDPP Mr D. Holding
Ms A. Haban-Beer

Counsel for Police Handlers Mr G. Chettle
Ms L. Thies

Counsel for John Higgs Ms C. Dwyer

Counsel for Pasquale Barbaro Ms G. Connelly

Counsel for AFP Ms I. Minnett

Counsel for ACIC Ms R. Curnow

Counsel for Chief
Commissioner of Police Mr A. Coleman SC
Mr P. Silver

Counsel for Paul Mullett Ms R. Shann

09:45:47 1 COMMISSIONER: Yes, the appearances are largely as they
09:45:50 2 were when we last sat, save that we have Mr Goodwin for the
09:45:57 3 State, we have Ms Shann for Paul Mullett, and we have two
09:46:05 4 outstanding applications for leave. Faruk Orman has
09:46:10 5 applied for leave to appear in respect of this witness, and
09:46:14 6 that leave is granted, although I don't think there's any
09:46:18 7 appearance for him here today. And the ACIC has applied
09:46:23 8 for leave to appear and that leave is also granted and
09:46:29 9 Ms Curnow I think is here for the ACIC today. Yes,
09:46:35 10 Mr Coleman.

09:46:37 11
09:46:37 12 MR COLEMAN: I appear with my learned friend Mr Silver for
09:46:42 13 Mr Ashton.

09:46:42 14
09:46:42 15 COMMISSIONER: Who is ready to give evidence, yes. And,
09:46:46 16 Mr Winneke, you are appearing with Ms Tittensor and
09:46:49 17 Mr Woods.

09:46:50 18
09:46:50 19 MR WINNEKE: Yes, I am Commissioner. I'm appearing with
09:46:50 20 Mr Woods and Ms Tittensor and we do call Mr Ashton. If
09:46:53 21 there are any other matters that need to be dealt with
09:46:56 22 perhaps we can deal with those, but otherwise we're ready
09:46:59 23 to go.

09:46:59 24
09:46:59 25 COMMISSIONER: I haven't been told of any. We'll have
09:47:03 26 Mr Ashton enter the witness box. Thanks Mr Ashton, and I
09:47:08 27 understand you will take the oath?---That's correct.

09:47:11 28
09:47:11 29 Thanks Mr Ashton.

09:47:14 30
09:47:14 31 <GRAHAM LEONARD ASHTON, sworn and examined:

09:47:27 32
09:47:27 33 COMMISSIONER: Yes Mr Coleman.

09:47:29 34
09:47:29 35 MR COLEMAN: Is your name Graham Leonard Ashton?---Yes, it
09:47:33 36 is.

09:47:33 37
09:47:34 38 You are the Chief Commissioner of Victoria Police?---That's
09:47:36 39 correct.

09:47:36 40
09:47:36 41 And your business address is the Victoria Police Centre in
09:47:41 42 Melbourne?---Yes.

09:47:42 43
09:47:43 44 Mr Ashton, have you prepared a statement signed on 30
09:47:45 45 August 2019?---Yes.

09:47:46 46
09:47:46 47 I think you've got a copy of it there with you?---That's

09:47:50 1 correct.
09:47:50 2
09:47:50 3 I understand you want to clarify a couple of matters in it.
09:47:53 4 Can you turn to paragraph 163, please?---Yes.
09:48:06 5
09:48:06 6 You want to clarify something in that paragraph?---Yes, in
09:48:09 7 that paragraph it says it involves a meeting that was
09:48:14 8 discussed between Deputy Commissioner Cartwright and Finn
09:48:20 9 McRae, Mr Finn McRae, and in that statement, the paragraph
09:48:25 10 of the statement there it says that it was agreed Mr McCrae
09:48:29 11 would discuss the matter with the Director of the OPP John
09:48:35 12 Champion. I've reflected since that statement, I think I
09:48:39 13 made a reference to discussing the matter with the OPP, not
09:48:42 14 with - without making direct reference to Mr Champion.
09:48:46 15
09:48:46 16 In paragraph 164, does that cause you to want to clarify
09:48:50 17 any other matter in that paragraph?---Similarly it's a
09:48:52 18 consequential paragraph where later in the week formally
09:48:59 19 had spoken to Mr Champion, from my recollection that was
09:49:03 20 more likely to have been a reference to the OPP rather than
09:49:05 21 specifically to Mr Champion.
09:49:06 22
09:49:06 23 I think if you look at paragraph 125 that same topic is
09:49:10 24 covered. Do you want to make the same clarifications with
09:49:13 25 respect to that paragraph?---Yes, I do. It was a reference
09:49:17 26 to the OPP more generally than specifically Mr Champion.
09:49:22 27
09:49:22 28 Yes, thank you. Also, if you look at paragraph 170 of your
09:49:24 29 statement, please. And 171. You there refer to matters
09:49:32 30 that occurred on 4 November and receipt of an email from
09:49:36 31 Ms Breckweg of the CDPP in paragraph 171. Can I ask you to
09:49:41 32 look at this document, it's VPL.6031.0021.6730. You'll see
09:49:55 33 there it's an email from you to Ms Breckweg of 4 November
09:50:01 34 2011?---Yes.
09:50:03 35
09:50:03 36 And is that a document that you didn't have at the time of
09:50:09 37 the preparation of your statement but responds to the email
09:50:12 38 you have exhibited in paragraph 171?---Yes.
09:50:14 39
09:50:16 40 Subject to those matters, are the contents of your
09:50:19 41 statement otherwise true and correct to the best of your
09:50:21 42 knowledge, information and belief?---Yes, they are.
09:50:24 43
09:50:24 44 Thank you Commissioner, they're the matters.
09:50:26 45
09:50:26 46 COMMISSIONER: Thanks very much Mr Coleman. Yes
09:50:28 47 Mr Winneke.

09:50:31 1
09:50:31 2 MR COLEMAN: Sorry, I should perhaps tender that email and
09:50:34 3 I tender the statement.
09:50:35 4
09:50:36 5 COMMISSIONER: The email has gone off the screen, 4
09:50:41 6 November 11, from Susan Alexander on behalf of
09:50:52 7 Graham Ashton to Krista Breckweg at the CDPD re Dale.
09:50:55 8
09:50:56 9 #EXHIBIT RC855A - (Confidential) Email 4/11/11 from Susan
09:50:49 10 Alexander on behalf of Graham Ashton to
09:50:52 11 Krista Breckweg at the CDPD re Dale
09:50:58 12
09:50:59 13 #EXHIBIT RC855B - (Redacted version.)
09:51:03 14
09:51:03 15 MR COLEMAN: I should tender the statement as well.
09:51:06 16
09:51:07 17 #EXHIBIT RC856A - (Confidential) Statement of Mr Ashton as
09:51:15 18 amended.
09:51:19 19
09:51:21 20 #EXHIBIT RC856B - (Redacted version.)
09:51:24 21
09:51:24 22 MR COLEMAN: May it please the Commissioner.
09:51:27 23
09:51:27 24 COMMISSIONER: Yes Mr Winneke.
09:51:28 25
09:51:28 26 <CROSS-EXAMINED BY MR WINNEKE:
09:51:29 27
09:51:29 28 I just want to clarify the amendments to your statement,
09:51:32 29 Mr Ashton, if I might. What you say is that, and you made
09:51:35 30 a statement which you signed I think on 30 August 2019 and
09:51:43 31 no doubt that was made after due consideration and
09:51:47 32 discussions with your legal representatives?---Yes.
09:51:50 33
09:51:50 34 In consultation with what notes that you had?---Yes.
09:51:53 35
09:51:54 36 And using your endeavours to recollect to the best of your
09:51:59 37 ability what had occurred, is that right?---Yes.
09:52:02 38
09:52:02 39 And in that statement at paragraph 125 you said that, and
09:52:06 40 this is subsequent to receiving the Maguire advice, "I
09:52:11 41 directed Mr McCrae", that's Finn McCrae, "To inform the
09:52:16 42 Director of the Office of Public Prosecutions John Champion
09:52:20 43 that Victoria Police was using a human source who was a
09:52:21 44 lawyer and it was undertaken independent investigation".
09:52:27 45 You want to change that paragraph, I take it, is that
09:52:31 46 right?---Correct.
09:52:31 47

09:52:32 1 And you also want to change paragraph 163 where you again
09:52:36 2 indicate that you directed or it was agreed that Mr McCrae
09:52:40 3 would discuss the matter with the Director of the Office of
09:52:45 4 Public Prosecutions John Champion. And you say, "Well
09:52:49 5 really what I meant to say there was, to discuss it with
09:52:53 6 the OPP in more general terms", is that right?---That sets
09:52:58 7 out my best recollection of that, yes.
09:53:01 8
09:53:01 9 Subsequently you say that McCrae, this is at 164, in fact
09:53:07 10 informed you that he had spoken to Mr Champion and,
11 "Thereafter he reported to me orally from time to time on
09:53:10 12 his communications with the OPP on this matter"?---Yes.
09:53:12 13
09:53:12 14 That's a matter you want to change also?---Correct.
09:53:15 15
09:53:16 16 I take it you don't have any notes, contemporaneous notes
09:53:24 17 of any instruction that you gave to Mr McCrae to speak to
09:53:29 18 anyone at the OPP, whether it be Mr Champion or otherwise,
09:53:33 19 is that right?---Correct.
09:53:35 20
09:53:35 21 You do have a note I think of 3 November, but that note
09:53:39 22 makes no reference to instructing him to tell Mr Champion
09:53:45 23 or anyone else about that, is that right?---Correct.
09:53:47 24
09:53:47 25 What it says is, 3 November, 11.30 hours, I take it you
09:53:53 26 know what I'm referring to?---Yes.
09:53:55 27
09:53:56 28 Because you've read it. "Met Tim Cartwright and Finn
09:54:01 29 McRae", then something about Witness F, "Discussion with",
09:54:07 30 or, "On Gerard Maguire advice. I indicated that Tim should
09:54:12 31 discuss with Pope to initiate an independent review of
09:54:17 32 Witness F source handling in ICNS", that's the note?---Yes.
09:54:24 33
09:54:24 34 "And also advised him he did not need to speak with Tim re
09:54:29 35 Pope complaint." That's the extent of that
09:54:32 36 note?---Correct.
09:54:32 37
09:54:33 38 And there are no notes thereafter as to receiving any
09:54:37 39 communications from Mr McCrae as to updates and so
09:54:42 40 forth?---Correct.
09:54:42 41
09:54:43 42 What was the proceeding that you were concerned about that
09:54:46 43 was then going on?---The proceeding that I was concerned
09:54:51 44 about were two really, there was the [REDACTED], or the [REDACTED] as it
09:54:56 45 was then known, we had a prosecution, a court matter that
09:55:00 46 was about to start.
09:55:00 47

09:55:01 1 Yes?---We also had, there might have been an upcoming court
09:55:07 2 date for Mokbel.
09:55:08 3
09:55:09 4 Right. So you say that you were concerned about that and
09:55:13 5 therefore you advised McRae to speak to the OPP about that
09:55:18 6 matter to make sure that disclosure had been made, is that
09:55:21 7 correct?---Yes.
09:55:21 8
09:55:24 9 When did you form the view that you had not directed him to
09:55:29 10 speak to John Champion specifically but more generally to
09:55:35 11 the Office of Public Prosecutions, when did you come to
09:55:39 12 that view?---Probably just a couple of weeks ago I think it
09:55:42 13 was.
09:55:42 14
09:55:42 15 What gave you that recollection, how did you come to change
09:55:45 16 your recollection?---Well, I was just provided with more
09:55:49 17 materials, including Finn McRae's statement by my legal
09:55:53 18 team.
09:55:54 19
09:55:54 20 So it was when you were provided with Mr McRae's statement
09:55:57 21 where he said - there's no reference in his statement to
09:56:02 22 being told by you to update the OPP or the Director of
09:56:06 23 Public Prosecutions?---Correct.
09:56:07 24
09:56:07 25 So is your recollection based on his recollection or his
09:56:10 26 statement?---No, it caused me to think harder about that
09:56:13 27 issue in terms of trying to make sure I was given the best
09:56:18 28 recollection I could and when I was doing that, there were
09:56:20 29 a number of times in the following years when I would ask
09:56:26 30 Finn what's the OPP position in relation to, in relation to
09:56:31 31 this matter, as to disclosure, et cetera, and when I was
09:56:36 32 asking about that we were making, you know, he was talking
09:56:40 33 about the fact that Mr Champion hadn't had concerns. And
09:56:43 34 there were a number of those conversations and that really
09:56:46 35 led me to then think actually did I mention Champion on
09:56:51 36 that first occasion or was it the subsequent conversations
09:56:55 37 that took place over a few years.
09:56:57 38
09:56:57 39 Yes?---And then I wasn't sure whether I actually did say at
09:57:01 40 first instance to talk to Champion specifically. I think
09:57:04 41 that came up later. I think on that first occasion it was
09:57:08 42 just to tell the OPP.
09:57:10 43
09:57:10 44 Do you think you've made notes elsewhere where you were
09:57:15 45 told that Mr Champion didn't have any concerns?---No,
09:57:17 46 because it wasn't my, it was just conversations I'd have
09:57:20 47 with Finn in regards to him reporting to me generally on

09:57:24 1 legal services and from time to time I'd say, "Look, is
09:57:27 2 there any movement on that other matter", even though I
09:57:30 3 wasn't responsible for dealing with that matter.
09:57:32 4
09:57:32 5 I take it what you would say is that one of the reasons you
09:57:36 6 were concerned about this is because as an experienced
09:57:40 7 member of the Police Force and as a person responsible for
09:57:49 8 an organisation or an arm of an organisation which brought
09:57:52 9 criminal prosecutions, that you would be aware that the
09:58:00 10 proper conduct of the criminal justice system requires that
09:58:04 11 persons who are charged with offences have appropriate
09:58:07 12 disclosure of materials that are in the hands of Victoria
09:58:12 13 Police, is that right?---Yes.
09:58:13 14
09:58:16 15 And I take it you are fully aware that the smooth and
09:58:20 16 proper operation of the criminal justice process is based
09:58:25 17 on that rule, amongst other legal principles, and that rule
09:58:28 18 is one of the fundamental principles of our criminal
09:58:31 19 justice process?---Yes.
09:58:32 20
09:58:37 21 Indeed, I take it you would be aware also as an experienced
09:58:40 22 member of the Police Force, a person who brings
09:58:45 23 prosecutions, that if a person is charged with an offence
09:58:50 24 and prosecuted, if that person doesn't have the information
09:58:57 25 that they ought be provided with, that is material
09:59:00 26 disclosure which may run against or run counter to the
09:59:04 27 prosecution case or indeed may provide them with an
09:59:08 28 opportunity of a defence, if convicted there is a very real
09:59:12 29 prospect that that conviction could be overturned?---Yes.
09:59:15 30
09:59:16 31 And if it is deliberately, material is deliberately
09:59:19 32 withheld from the court, from the prosecution, from the
09:59:22 33 defence, there is at least a prospect that it could be said
09:59:25 34 that a conviction has been improperly obtained?---Depending
09:59:34 35 on the circumstances, yes.
09:59:36 36
09:59:36 37 If it's deliberately withheld it might be said that the
09:59:39 38 conduct of deliberating withholding it could amount to a
09:59:49 39 perversion of the course of justice, do you agree with that
09:59:50 40 proposition?---In certain circumstances again, yes.
09:59:53 41
09:59:56 42 Another fundamental proposition that you would be aware of
10:00:00 43 and would have been aware of was that if a person is
10:00:05 44 charged or at least interviewed as a suspect for a criminal
10:00:10 45 offence they're entitled to independent legal
10:00:13 46 representation, do you accept that proposition?---Yes.
10:00:15 47

10:00:17 1 And if a person is deprived of independent legal
10:00:22 2 representation, at a time that they're making significant
10:00:28 3 decisions about what they should be doing, again, that
10:00:31 4 might - and deliberately so, that is deliberately deprived,
10:00:35 5 that might amount to a basis upon which a conviction could
10:00:39 6 be overturned, do you accept that proposition?---Yes.
10:00:42 7
10:00:49 8 You have been involved as a participant in litigation
10:00:56 9 around these matters in a proceeding which ultimately went
10:01:01 10 to the High Court and resulted in a decision of the High
10:01:10 11 Court which was published in December last year,
10:01:13 12 correct?---Correct.
10:01:13 13
10:01:15 14 You were the plaintiff I think in that
10:01:17 15 proceeding?---Correct.
10:01:17 16
10:01:17 17 That proceeding was handed down I think in November but it
10:01:20 18 was published or publicly published on 4 December or
10:01:24 19 thereabouts. Do you accept that?---Yes.
10:01:28 20
10:01:28 21 And you were aware that the High Court said in that
10:01:32 22 decision, describing the situation that it was dealing with
10:01:38 23 as perhaps unique and it said that it's greatly to be hoped
10:01:42 24 that it will never to be repeated. "Ms Gobbo's actions in
10:01:48 25 purporting to act as counsel for convicted persons while
10:01:52 26 covertly informing against them were fundamental and
10:01:56 27 appalling breaches of Gobbo's obligations as counsel to her
10:01:58 28 clients and of her duties to the court". Do you accept
10:02:02 29 that?---Yes.
10:02:03 30
10:02:03 31 And also the High Court went on to say, "Likewise Victoria
10:02:07 32 Police were guilty of reprehensible conduct in knowingly
10:02:12 33 encourage Gobbo to do as she did and were involved in
10:02:13 34 sanctioning atrocious breaches of the sworn duty of every
10:02:18 35 police officer to discharge all duties imposed on them
10:02:19 36 faithfully and according to law and without favour or
10:02:22 37 affection, malice or ill-will. As a result the prosecution
10:02:27 38 of each convicted person was corrupted in a manner which
10:02:30 39 debased fundamental premises of the criminal justice
10:02:35 40 system". Do you accept that that was the finding that was
10:02:40 41 made by the High Court?---Yes.
10:02:42 42
10:02:42 43 Do you accept that there was a basis to make that
10:02:45 44 finding?---Yes, I accept there was a basis to make that
10:02:50 45 finding.
10:02:50 46
10:02:51 47 And it went on, the High Court went on and said, "It

10:02:55 1 follows as Ginnane J and the Court of Appeal held that the
10:02:59 2 public interest favouring disclosure is compelling. The
10:03:00 3 maintenance of the integrity of the criminal justice
4 systems demands that the information be disclosed and that
10:03:08 5 the propriety of each convicted person's conviction be
10:03:09 6 re-examined in light of the information. Public interest
10:03:14 7 in preserving Ms Gobbo's anonymity must be subordinated to
10:03:19 8 the integrity of the criminal justice system". You're
10:03:21 9 aware that the High Court made those findings?---Yes.
10:03:24 10
10:03:25 11 And do you accept that those findings had a proper, had a
10:03:27 12 basis?---Yes.
10:03:29 13
10:03:30 14 Now, you understand also that the High Court said that,
10:03:33 15 "Generally speaking it's of the utmost importance that
10:03:37 16 assurances of anonymity of the kind that were given to
17 Ms Gobbo are honoured if they were not, informers could not
10:03:43 18 be protected and persons would be unwilling to provide
10:03:45 19 information to the police which may assist in the
10:03:47 20 prosecution of offenders. That is why police informer
10:03:52 21 anonymity is ordinarily protected by public interest
22 immunity. But where as here the agency of police informer
10:03:58 23 has been so abused as to corrupt the criminal justice
10:04:00 24 system there arises a greater public interest in disclosure
10:04:05 25 to which public interest in informer anonymity must yield".
10:04:07 26 Again, do you accept that there was a basis for those
10:04:10 27 findings?---Yes.
10:04:11 28
10:04:13 29 Can I ask you this: this Royal Commission was set up on
10:04:16 30 the basis of that decision, the High Court's decision, but
10:04:21 31 also the decision from which the appeal had arisen, that is
10:04:29 32 the decision of Justice Ginnane's. That decision was based
10:04:38 33 on the proposition it seems that Ms Gobbo was first
10:04:42 34 registered, or registered as an informer, in 2005. You're
10:04:51 35 aware of that?---Yes.
10:04:53 36
10:04:53 37 And indeed Justice Ginnane made certain findings about
10:04:58 38 that, including findings as to Ms Gobbo's motivation, why
10:05:04 39 she became an informer, and Justice Ginnane made
10:05:10 40 conclusions about her motivations about becoming an
10:05:14 41 informer, but it seems that there was no reference,
10:05:17 42 certainly there's no reference in his decision to the fact
10:05:20 43 that Ms Gobbo had been an informer previously, back in 1996
10:05:28 44 and then 1999/2000 or thereabouts. Did it concern you that
10:05:36 45 the decision seemed to be - Justice Ginnane seemed to be
10:05:41 46 operating on the basis that Ms Gobbo was first registered
10:05:44 47 as an informer in 2005?---Yes, 2005, yes.

10:05:52 1
10:05:52 2 You knew, didn't you, that she had been registered,
10:05:56 3 certainly on the earlier occasion by Mr Pope?---Which
10:06:01 4 occasion is that?
10:06:03 5
10:06:04 6 I'm sorry?---Sorry, which occasion was Mr Pope registering
10:06:09 7 her?
10:06:09 8
10:06:09 9 Were you aware that Ms Gobbo had been registered by Mr Pope
10:06:15 10 in around 2000, weren't you?---No.
11
10:06:17 12 Late 90s into 2000?---No, I wasn't.
10:06:20 13
10:06:20 14 You weren't aware of that?---No.
10:06:21 15
10:06:21 16 Did you not know as a litigant in the proceedings that
10:06:24 17 Ms Gobbo had in fact been registered as an informer by
10:06:28 18 Mr Pope?---No.
10:06:28 19
10:06:29 20 Are you sure about that?---Yes.
10:06:30 21
10:06:31 22 Did Mr Pope not tell you that he had previously registered
10:06:35 23 Ms Gobbo as an informer?---No, not that I can ever - not
10:06:39 24 that I have any recollection of, no.
10:06:41 25
10:06:41 26 You certainly knew that Ms Gobbo made an allegation that
10:06:46 27 Mr Pope had been in a relationship with her?---Yes.
10:06:49 28
10:06:50 29 And that's an allegation that's set out - it's actually
10:06:55 30 referred to in the diary note that I took you to earlier
10:07:00 31 on?---That's correct.
10:07:00 32
10:07:00 33 Do you mean to say that you did not know that Ms Gobbo had
10:07:04 34 been registered by Mr Pope and he didn't tell you
10:07:07 35 that?---Correct.
10:07:07 36
10:07:11 37 When were you first told, when did you first learn that
10:07:14 38 Ms Gobbo had been registered prior to September of
10:07:20 39 2005?---During the establishment of the processes to set up
10:07:23 40 the Royal Commission and it emerged that there was, I was
10:07:26 41 informed by Deputy Commissioner Steendam that there had
10:07:33 42 been a document located that showed an earlier registration
10:07:36 43 in the 90s.
10:07:38 44
10:07:38 45 You might be mistaken, because you know that she has been
10:07:40 46 registered on three occasions, the first occasion back in
10:07:43 47 the mid-90s, 96 or thereabouts, and then again by Mr Pope

10:07:48 1 in the late 90s, about 2000, you're aware of that?---Yes.
10:07:52 2
10:07:53 3 Can I suggest to you that it may well be that it was
10:07:56 4 brought to your attention during the course of these
10:07:59 5 proceedings setting up the Royal Commission that she'd been
10:08:02 6 registered back in 96. But it was well-known to police I
10:08:08 7 suggest to you and Victoria Police that she was registered
10:08:11 8 in 2000 by Mr Pope prior to the establishment of the Royal
10:08:15 9 Commission, indeed during the course of the litigation you
10:08:18 10 had been involved in?---Not to my knowledge.
10:08:20 11
10:08:21 12 Not to your knowledge?---No.
10:08:26 13
10:08:26 14 Mr Paterson said that he discovered the 1996 registration
10:08:30 15 in mid-2008. Do you say you - 18, I'm sorry, you weren't
10:08:38 16 told about that, that is before the decision of the High
10:08:41 17 Court had been handed down?---No, I wasn't told about that.
10:08:45 18
10:08:46 19 It seems extraordinary that you weren't aware of these
10:08:49 20 things. You're a litigant in significant proceedings
10:08:52 21 before the High Court which goes all the way, before the
10:08:56 22 Supreme Court which goes to the High Court and you're not
10:08:58 23 aware of these things?---I can only tell you when I was
10:09:03 24 first made aware of it and by whom.
10:09:04 25
10:09:05 26 When did you think you first made an attempt as a police
10:09:12 27 officer with responsibilities to get to the bottom of
10:09:14 28 Ms Gobbo's involvement as a human source, as an informer,
10:09:17 29 when did you first attempt to do that?---That was in 2011.
10:09:24 30
10:09:24 31 2011. And so, what, you set about making inquiries to find
10:09:29 32 out all of the information that was available to determine
10:09:33 33 what sort of information Ms Gobbo had provided in relation
10:09:36 34 to whom?---Yes.
10:09:37 35
10:09:37 36 And in what capacity she provided it, is that right?---Yes.
10:09:42 37
10:09:42 38 And the basis of that was the provision to you of the, I
10:09:50 39 think a report which Mr Sheridan provided and Mr O'Connell
10:09:55 40 had prepared relatively swiftly over a weekend around 7, 8
10:10:01 41 November of 2011, is that right, O'Connor, rather?---Yeah,
10:10:05 42 there was also an advice that was provided by a legal
10:10:12 43 barrister, Mr Maguire, that just preceded that.
10:10:16 44
10:10:17 45 Yes?---And that also gave me levels of concern.
10:10:20 46
10:10:22 47 What you say is when you, I think when you found, when

10:10:30 1 Mr O'Connor provided you or Mr Sheridan provided you with
10:10:34 2 Mr O'Connor's report, you said that you were shocked by the
10:10:40 3 extent to which she had provided information?---Yes.
10:10:44 4
10:10:44 5 And you say that prior to that you hadn't been aware of any
10:10:55 6 real information about what she had been doing?---I was
10:10:58 7 aware she was a human source before that, but certainly not
10:11:01 8 aware of the extent of it until that period of time.
10:11:06 9
10:11:11 10 The legal advice that you got from Mr Maguire was advice
10:11:15 11 which concerned the ACC proceedings which were then being
10:11:23 12 brought against Mr Dale, is that correct?---Correct.
10:11:26 13
10:11:27 14 And you say that you received Mr Maguire's advice on about
10:11:30 15 2 November 2011 and amongst the things that Mr Maguire set
10:11:37 16 out were that Ms Gobbo had been approached in September of
10:11:48 17 2005 by the MDID to supply information in relation to Tony
10:11:52 18 Mokbel at a time when she was acting for him, is that
10:11:55 19 right?---Yes.
10:11:56 20
10:11:57 21 And that Gobbo had been tasked to meet with Dale but to do
10:12:01 22 so in business hours and consistent with professional
10:12:03 23 contact, correct, that's what Mr Maguire set out in his
10:12:07 24 advice?---Yes.
10:12:08 25
10:12:08 26 That she had shown Petra investigators documents that she
10:12:12 27 had received from Dale when she had visited him in custody,
10:12:16 28 right?---Yes.
10:12:16 29
10:12:17 30 That Dale's defence to the ACC charges will be that any
10:12:21 31 discussion he had with Gobbo was the subject of legal
10:12:24 32 professional privilege, that was what it was anticipated
10:12:28 33 his defence might be, are you aware of that?---I'm aware
10:12:31 34 that was in his advice.
10:12:32 35
10:12:32 36 That Limited disclosure of materials from the SDU
10:12:36 37 concerning their involvement with Gobbo may well be
10:12:38 38 required and that would reveal that Gobbo was an informer
10:12:41 39 and then further disclosure would be pressed in order to
10:12:44 40 attack her credit, correct?---Correct.
10:12:46 41
10:12:47 42 And if Gobbo's role was fully exposed then there was a
10:12:51 43 prospect that Mokbel and others would seek to challenge
10:12:55 44 convictions on the basis that they had been improperly
10:12:59 45 obtained, correct?---Correct.
10:13:00 46
10:13:01 47 And that such issues could play out in the Court of Appeal

10:13:07 1 and that was Mr Maguire's advice, right?---Correct.

10:13:10 2

10:13:11 3 You say that that was the first time that it had been

10:13:18 4 revealed to you that Ms Gobbo had been providing

10:13:21 5 information which may well effect prosecutions, convictions

10:13:26 6 of Mr Mokbel and others?---Yes.

10:13:28 7

10:13:29 8 You didn't know at that stage that Ms Gobbo had provided

10:13:33 9 information broadly in relation to underworld or organised

10:13:41 10 crime matters?---Organised crime matters I think from back

10:13:46 11 in the days of Petra, because that was an investigation

10:13:51 12 into a range of people, including organised crime type

10:13:56 13 people.

10:13:56 14

10:13:56 15 Right. But insofar as Mr Mokbel is concerned, you didn't

10:14:01 16 know about that?---No.

10:14:02 17

10:14:08 18 So you were concerned to make sure that any proceedings

10:14:14 19 that relied upon the evidence of Ms Gobbo, any prosecutors,

10:14:23 20 defence, court that was receiving that evidence should be

10:14:27 21 made aware of this information?---If the prosecution is

10:14:32 22 going ahead, absolutely.

10:14:34 23

10:14:34 24 Indeed ultimately you took the view that insofar as the

10:14:39 25 prosecution against Paul Dale for lying to the ACC, insofar

10:14:45 26 as any evidence relying on by Ms Gobbo, those charges

10:14:51 27 should be withdrawn?---Yes.

10:14:53 28

10:14:53 29 You were quite consistent that that be the case?---Yes.

10:14:56 30

10:14:57 31 We'll come back to this in due course but you had a number

10:14:58 32 of meetings with prosecutors, with investigators and

10:15:02 33 ultimately your view prevailed, that the charges should be

10:15:08 34 withdrawn?---Yes.

10:15:10 35

10:15:14 36 Can I suggest to you that even prior to this advice you

10:15:22 37 were aware of information about the activities of Ms Gobbo

10:15:32 38 which gave rise to the possibility that other matters might

10:15:36 39 be, other proceedings might be affected, do you disagree

10:15:43 40 with that proposition?---Yes.

10:15:44 41

10:15:45 42 At a Driver meeting, a Driver Task Force meeting on 3

10:15:48 43 November 2011, there were notes taken and it was at that

10:15:54 44 meeting, I think on 3 November, we've got your note at

10:15:58 45 least in part which seems to relate to that, do you accept

10:16:01 46 it was on that date there was a Driver Task Force

10:16:03 47 meeting?---Yes, there was Task Force meetings through that

10:16:07 1 period, yes.
10:16:08 2
10:16:09 3 And on that day it was noted that there was a committal for
10:16:16 4 Dale due to start Monday and Witness F, that is Ms Gobbo,
10:16:20 5 was a witness in that prosecution. Now you're aware of
10:16:24 6 that?---Yes, as a witness, yes.
10:16:25 7
10:16:26 8 "To proceed without Ms Gobbo's evidence subject to final
10:16:30 9 DPP decision, Friday 4 November, necessitating withdrawal
10:16:33 10 of several charges", that seems to suggest that those
10:16:36 11 matters were being discussed, correct?---Yes.
10:16:38 12
10:16:40 13 "Discussed Maguire's legal advice of 4 October received by
10:16:45 14 me", whoever the writer is of these minutes, "On 2 November
10:16:50 15 provided at the request of the VGSO. Maguire briefed to
10:16:56 16 appear at committal if required to claim PII", that's
10:17:01 17 public interest immunity. Does that sound right, that
10:17:02 18 there would have been discussions about that?---Yes.
10:17:07 19
10:17:08 20 "OPP prosecutor has received the advice as well", so that
10:17:11 21 would be a reference to the Commonwealth Office of Public
10:17:17 22 Prosecutions, the prosecutor receiving the advice?---Yes.
10:17:19 23
10:17:20 24 "Maguire advice raises the issue of governance of human
10:17:24 25 sources when the human source is a legal practitioner."
10:17:27 26 That's something that would have been discussed,
10:17:30 27 correct?---Yes, that was in the advice, yep.
10:17:33 28
10:17:36 29 And there's an action item here, "TC to discuss with JP as
10:17:42 30 to how we can ensure appropriate governance". Who would TC
10:17:48 31 be?---Tim Cartwright, the Deputy Commissioner at the time.
10:17:51 32
10:17:52 33 He would discuss it with Jeff Pope as to, "How we can
10:17:56 34 ensure appropriate governance"?---Yes.
10:17:58 35
10:17:58 36 It was noted, "Comment at paragraph 52 not accurate", that
10:18:05 37 is that [REDACTED]
10:18:05 38 [REDACTED] there was, insofar as the advice was concerned,
10:18:09 39 I think at paragraph 52 Mr Maguire had a mistaken view that
10:18:13 40 [REDACTED] Ms Gobbo's position with
10:18:15 41 respect to protection, is that right?---Yes, I believe so.
10:18:18 42
10:18:22 43 Then this note appears, "GA concerns around Inca, a pending
10:18:28 44 AFP matter for large scale drug importation after a joint
10:18:33 45 operation. F was the originating human source. AFP,
10:18:39 46 although aware of the importance of the human source, are
10:18:42 47 not aware that it was F. Concern that F was acting as

10:18:49 1 legal advisor to one of the accused at the time". That's
10:18:52 2 something that you have added to the Driver meeting on 3
10:18:56 3 November?---Yes.
10:18:57 4
10:18:57 5 Correct, do you accept that?---Yes.
10:18:59 6
10:18:59 7 That would seem to suggest that you've got some knowledge
10:19:01 8 at that stage of matters which aren't set out in
10:19:06 9 Mr Maguire's advice, doesn't it?---Yes, more broadly I knew
10:19:09 10 about the Inca, the Inca matter.
10:19:11 11
10:19:12 12 So you did know about the Inca matter more broadly, is that
10:19:15 13 right?---More broadly as an investigation, yes.
10:19:17 14
10:19:19 15 What did you know about that and how did you become aware
10:19:22 16 of that?---It was probably through my time as, when I was
10:19:27 17 in that role as Assistant Commissioner Crime and I was
10:19:31 18 aware there was a joint matter involving, I think it was a
10:19:35 19 large scale importation, involving a range of organised
10:19:39 20 crime figures.
10:19:41 21
10:19:41 22 Yes. And you were obviously aware therefore that she had
10:19:46 23 acted for a person by the name of Karam?---No, I wasn't
10:19:50 24 aware of that.
10:19:50 25
10:19:51 26 It seems that you were aware that she was acting as legal
10:19:56 27 advisor to one of the accused at the time, it seems you've
10:19:59 28 contributed that to the Task Force meeting?---Concerned
10:20:03 29 about the possibility of it all, yes.
10:20:04 30
10:20:04 31 About the possibility. "Some concern that F was acting as
10:20:08 32 legal individual for one of the accused at the time", was
10:20:11 33 that just a guess, was it?---Well, suggesting she could
10:20:17 34 well have been given the Maguire advice.
10:20:19 35
10:20:19 36 Who told you about Ms Gobbo's involvement in Inca?---I was
10:20:24 37 asking the question there about I've got concerns about
10:20:27 38 Inca, was she involved in Inca, was she involved as a
10:20:31 39 source in relation to Inca.
10:20:32 40
10:20:32 41 The note indicates you've got concerns around Inca, a
10:20:39 42 pending AFP matter for large scale drug importation. "F
10:20:42 43 was the originating human source." Firstly, you seemed to
10:20:46 44 know that much?---Through the conversations and the actual
10:20:50 45 meeting, yes.
10:20:50 46
10:20:51 47 Which meeting and when did you learn that?---The Driver

10:20:54 1 Task Force steering committee meeting.
10:20:54 2
10:20:55 3 Which Driver Task Force steering committee was concerned
10:20:57 4 with Operation Inca?---I raised it in the context of the
10:21:02 5 meeting, to say, "Is Inca a concern", and was she a source
10:21:08 6 for Inca was discussed at that particular meeting.
10:21:10 7
10:21:10 8 Can I suggest to you that what that note suggests is,
10:21:12 9 Driver has nothing to do with Inca and those matters, I
10:21:16 10 take it, that's correct?---Correct.
10:21:18 11
10:21:18 12 What that suggests is that you had information, you had
10:21:22 13 knowledge that Ms Gobbo was involved in that Inca
10:21:26 14 matter?---No.
10:21:27 15
10:21:27 16 No?---No.
10:21:27 17
10:21:28 18 Was it just a pure guess, was it?---It was a major matter
10:21:33 19 involving a range of organised crime figures so yes, I did
10:21:37 20 have concerns.
10:21:38 21
10:21:38 22 Out of all of the matters that Ms Gobbo may have been
10:21:43 23 involved in you were concerned that she might have been
10:21:45 24 involved in some way, in some form with Inca?---Yes.
10:21:50 25
10:21:50 26 And that a pending AFP matter, "And F was the originating
10:21:54 27 human source". Well, how can that be the case if you're
10:21:57 28 saying, if your contribution is F was the originating human
10:22:01 29 source, assuming that's the case, it's not a wild guess,
10:22:05 30 it's based on information, isn't it?---It's based on is
10:22:08 31 that a possibility that she was? And that was discussed at
10:22:11 32 the meeting.
10:22:11 33
10:22:12 34 Do you seriously say to this Commission this was purely
10:22:15 35 raised as guesswork by you?---It was a sensible question
10:22:18 36 for me to ask at the meeting because of the nature of Inca.
10:22:22 37
10:22:22 38 Were there any people at Inca who might, sorry, at the
10:22:25 39 meeting who would have had a knowledge of what was going on
10:22:29 40 with Inca?---Doug Fryer.
10:22:31 41
10:22:35 42 What did he tell you?---From memory I think he, there was
10:22:41 43 something around the fact that he, that she was, she had an
10:22:46 44 involvement in Inca, which is what prompted me to write
10:22:50 45 that note down.
10:22:51 46
10:22:51 47 Inca was the tomato tins importation, wasn't it?---Yeah, it

10:22:56 1 was a large importation. I don't remember whether it was
10:23:01 2 tomato tins.
10:23:02 3
10:23:02 4 It went on to be prosecuted?---I believe so.
10:23:05 5
10:23:06 6 A number of people were prosecuted and obviously convicted
10:23:11 7 and are now serving many years in custody, correct?---Or
10:23:15 8 have already served periods in custody.
10:23:18 9
10:23:19 10 Can I suggest to you that at that stage the prosecution
10:23:21 11 wasn't, hadn't been brought to court and was
10:23:26 12 ongoing?---Yeah, I'm not sure of the dates.
10:23:28 13
10:23:28 14 It says, "Pending AFP matter", right? So those at the
10:23:32 15 meeting would have been aware that there's appending AFP
10:23:35 16 matter involving large scale importation in which Ms Gobbo
10:23:39 17 was potentially a human source and was potentially acting
10:23:43 18 for one of the accused people?---Correct.
10:23:44 19
10:23:48 20 What steps were taken by you to notify the Commonwealth
10:23:55 21 Director of Public Prosecutions of Victoria Police's
10:23:57 22 involvement in this operation and Ms Gobbo's involvement in
10:24:00 23 this operation?---Well I did a number of things. I suppose
10:24:05 24 I spoke to Deputy Commissioner Tim Cartwright in terms of
10:24:08 25 making sure that we had a full review commenced of all the
10:24:12 26 matters that she potentially could have been involved in as
10:24:15 27 a human source.
10:24:16 28
10:24:17 29 All right. I want to focus on this in particular because
10:24:20 30 it seems quite clear that at this meeting you say you're
10:24:22 31 told by Mr Fryer that Ms Gobbo is a human source in Inca
10:24:25 32 and there's a potential, sorry, a matter which is
10:24:28 33 proceeding and you've got information which is significant
10:24:32 34 information which you would say, because of your
10:24:34 35 understanding of the significant obligations of disclosure,
10:24:37 36 should be brought to the attention of the Commonwealth
10:24:42 37 Director of Public Prosecutions. What steps were taken to
10:24:44 38 bring that to the attention of the Commonwealth?---Yes, as
10:24:46 39 I said I initially spoke to Deputy Commissioner Cartwright
10:24:50 40 with a view to making sure that the matter was properly
10:24:53 41 investigated to make sure that any case she had any
10:24:57 42 involvement in was properly assessed. I asked Finn to
10:25:02 43 notify the OPP at that meeting. I also had, in the course
10:25:06 44 of the meetings with the ACC in regards to the Dale matter,
10:25:12 45 Shane Kirne was at those meetings, he was the State
10:25:16 46 Director of the Commonwealth DPP.
10:25:18 47

10:25:18 1 You were at the meeting with Mr Kirne, weren't you?---Yes.
10:25:21 2
10:25:21 3 It would have been a good opportunity for you to say,
10:25:24 4 "Shane, I should tell you that we understand that you've
10:25:28 5 got a matter, it's a big matter and we've got some
10:25:30 6 information which we think you should know about", did you
10:25:34 7 do that?---Shane Kirne was across all of our, all the
10:25:37 8 matters that were going on in the Commonwealth.
10:25:39 9
10:25:39 10 Is the answer to that question no?---I made sure - Mr Kirne
10:25:43 11 was aware that she was a human source and that, yeah, and
10:25:47 12 that he was aware of the matter of Inca.
10:25:50 13
10:25:50 14 Sorry to interrupt. Was Mr Kirne aware at that meeting
10:25:53 15 that she was a human source, not only that, but she had
10:25:56 16 been providing information which enabled the bringing of
10:26:00 17 prosecutions against a number of people arising out of
10:26:04 18 Inca, was he made aware of that?---I didn't tell him that.
10:26:07 19
10:26:07 20 Why not?---He was aware of the matters, Commonwealth
10:26:09 21 matters and we were, I'd taken steps to make sure the
10:26:16 22 matter was properly reviewed.
10:26:17 23
10:26:17 24 What steps did you take to make sure that this information
10:26:21 25 which was discussed on 3 November, what steps did you make
10:26:24 26 to take to ensure, to satisfy yourself that the appropriate
10:26:28 27 authorities in the Commonwealth were in fact aware of this
10:26:31 28 information?---I reported it to my next in line, my
10:26:34 29 superior officer was the Deputy Commissioner and I sought
10:26:37 30 to ensure that Finn notified prosecuting agencies.
10:26:40 31
10:26:40 32 Did you tell Mr McRae about the Inca matter and ask him to
10:26:45 33 pass that information on?---What I asked to pass the
10:26:49 34 information on was that she was a human source for police.
10:26:52 35
10:26:53 36 Did you at any stage satisfy yourself that that information
10:26:58 37 which had been discussed on 3 November 2011 had got to
10:27:02 38 where it should get?---Only in the context of talking to,
10:27:07 39 hearing from Finn the following few days later.
10:27:10 40
10:27:13 41 Do I take it that you didn't say to anyone, "Look, I want
10:27:17 42 to be absolutely assured that this has been passed on, this
10:27:21 43 information"?---No, that was a role for the Deputy
10:27:24 44 Commissioner in my view.
10:27:25 45
10:27:26 46 You were aware - did you become aware that Ms Gobbo had
10:27:31 47 passed on a bill of lading which she had received at a time

10:27:36 1 that she was acting for Rob Karam at a trial?---No.
10:27:39 2
10:27:41 3 She was the originating human source and you say you
10:27:49 4 weren't aware of the fact that she had been provided with
10:27:53 5 or photocopied a bill of lading and had passed it
10:27:56 6 on?---Correct.
10:27:57 7
10:28:01 8 The other matter that was going on at that time, you say
10:28:04 9 that you're aware of a proceeding involving Mokbel. Are
10:28:08 10 you aware that at about that time there were proceedings
10:28:13 11 before Justice Whelan in the Supreme Court in which Tony
10:28:18 12 Mokbel was seeking to set aside or at least have withdrawn
10:28:26 13 a plea of guilty that he had made in relation to various
10:28:30 14 charges that he had pleaded guilty to having been brought
10:28:33 15 back from Greece?---Yes, there was a pending court matter,
10:28:36 16 yes.
10:28:37 17
10:28:38 18 And that matter was I think before the Supreme Court in
10:28:45 19 October of 2011 and ultimately I think the decision was
10:28:49 20 handed down in March of 2012. Whilst you may not recall
10:28:54 21 the details of it now you would have been across them then
10:28:58 22 I take it?---Really only that there was a pending date, I
10:29:02 23 wasn't sure what the matter was going to be concerning.
10:29:04 24
10:29:05 25 You would have been aware that very many of your senior
10:29:09 26 investigators, I think one of the former heads of Purana
10:29:09 27 Mr O'Brien was giving evidence before Mr Justice Whelan
10:29:12 28 about affidavits?---Yes, I knew that O'Brien was involved
10:29:15 29 in that matter, yes.
10:29:16 30
10:29:17 31 And that Mr Mokbel having pleaded guilty was then seeking
10:29:21 32 to set aside, to have his plea of guilty withdrawn on the
10:29:26 33 basis that he felt he might have a defence, that is that
10:29:30 34 officers hadn't properly sworn affidavits, or indeed hadn't
10:29:35 35 sworn affidavits at all for the purposes of getting
10:29:37 36 warrants for listening devices and search warrants and so
10:29:41 37 forth, you're aware of that matter?---Now I am, yes.
10:29:44 38
10:29:44 39 You would have been aware of it then surely?---Not to the
10:29:48 40 level of that specificity, no.
10:29:50 41
10:29:50 42 Were you not aware that there was a decision, I think it
10:29:54 43 was Marijancevic, in which there was a concern raised in
10:29:58 44 the proceeding that officers hadn't been swearing
10:30:02 45 affidavits, albeit the expectation was that they'd swear
10:30:06 46 affidavits, but they weren't doing so and then there was an
10:30:09 47 argument that the evidence would be inadmissible, you're

10:30:11 1 aware of that?---No, I don't believe I was at that time.
10:30:15 2
10:30:15 3 You were certainly aware Mr O'Brien was giving evidence in
10:30:18 4 court at that time or around that time?---Yes.
10:30:20 5
10:30:20 6 Amongst other people?---Yes.
10:30:22 7
10:30:25 8 You were aware I take it that there was litigation going on
10:30:31 9 which in effect concerned Mr Mokbel and whether or not he
10:30:34 10 was guilty or wasn't guilty of offences?---Yes.
10:30:37 11
10:30:37 12 You had in your possession the Maguire advice which
10:30:42 13 referred to the possibility of Mr Mokbel's convictions and
10:30:47 14 others being set aside?---Yes.
10:30:50 15
10:30:50 16 You were aware that the way in which, by this stage,
10:30:54 17 Ms Gobbo had been involved was to provide information
10:30:58 18 against Mokbel or associates of Mokbel?---Yes.
10:31:02 19
10:31:02 20 And so that would have been significant information, one
10:31:05 21 would have thought, to the participants in that litigation
10:31:10 22 which was then going on in the Supreme Court?---Yes.
10:31:12 23
10:31:12 24 What steps did you take to satisfy yourself that the
10:31:18 25 prosecutors and the defence and the court were aware of
10:31:20 26 this information before that decision was finalised?---Well
10:31:24 27 I went forthwith to my superior officer, the Deputy
10:31:28 28 Commissioner, to advise him of the concerns and also the
10:31:30 29 head of the police legal services.
10:31:32 30
10:31:32 31 And your superior officer was?---Tim Cartwright.
10:31:36 32
10:31:36 33 You told Mr Cartwright, "Look, I'm very concerned about,
10:31:41 34 I'm very concerned about this information that we now know
10:31:45 35 about"?---Yes.
10:31:46 36
10:31:47 37 "That Mr Maguire suggests that Mr Mokbel's matters could
10:31:53 38 be, convictions could be suspect"?---Yes.
10:31:57 39
10:31:58 40 "And we need to make sure that the courts, that the
10:32:02 41 appropriate people are aware of this information"?---We
10:32:05 42 need to make sure that this whole, what appeared to be
10:32:09 43 then, a very messy situation with her was properly
10:32:14 44 investigated and understood for the impacts across the
10:32:18 45 whole, every matter that she potentially could have had
10:32:22 46 some involvement in, not just that matter.
10:32:24 47

10:32:25 1 The reality is Victoria Police is an investigating agency
10:32:29 2 which brings prosecutions, and those prosecutions can be
10:32:32 3 very significant, you accept that?---Yes.
10:32:34 4
10:32:35 5 And by November of 2011 you were aware that Ms Gobbo had
10:32:39 6 been providing information to Victoria Police which had the
10:32:46 7 potential of effecting those convictions, and I'm talking
10:32:49 8 about particular convictions such as Mokbel and
10:32:53 9 others?---Yes.
10:32:53 10
10:32:58 11 What I would like you to answer or what I would like you to
10:33:02 12 deal with is what steps were taken to ensure that those
10:33:05 13 people involved in that litigation were aware of the
10:33:08 14 issues?---I believe I took the action that was appropriate
10:33:11 15 for me to take, which was to notify my superior officer of
10:33:16 16 what was occurring, notify the head of police legal
10:33:19 17 services who does the, who manages the relationships with
10:33:24 18 our prosecutors and prosecuting, you know, barristers who
10:33:29 19 represent offenders and anyone else in the legal community.
10:33:33 20 And I discharged my obligations to make sure both of them
10:33:35 21 were aware of this, in fact I urged the commencement of a
10:33:40 22 full review to properly understand the potential impacts in
10:33:45 23 order to do exactly that.
10:33:46 24
10:33:47 25 That review was the Comrie review, was it not?---Ultimately
10:33:50 26 it became the Comrie review, yes.
10:33:53 27
10:33:53 28 That was an internal review to determine how the policies
10:33:58 29 had resulted in Ms Gobbo doing what she had done, that was
10:34:03 30 the effect of the Comrie review?---The Comrie review was
10:34:08 31 our first attempt to properly understand what sort of risks
10:34:13 32 were being created by this human source, how she was being
10:34:19 33 managed with a view to taking action in respect of it, yes.
10:34:21 34
10:34:21 35 That wasn't in the nature of an external review or an
10:34:25 36 advice, a legal advice as to what effect Ms Gobbo's conduct
10:34:28 37 may have had on a particular case which was then before the
10:34:31 38 courts, was it?---Well that was something that would have
10:34:33 39 to grow from that assessment. We needed to know what we
10:34:37 40 were dealing with in the first instance in relation to the
10:34:39 41 Comrie review.
10:34:40 42
10:34:40 43 Look, Mr Ashton, you say you're aware of the importance of
10:34:43 44 the criminal justice process and disclosure and so forth.
10:34:45 45 Can I suggest to you that there were no steps taken to
10:34:51 46 notify the participants in the two cases that I've now been
10:34:56 47 talking about to ensure that those cases did not go off the

10:35:00 1 rails?---I believe I took the steps that were necessary for
10:35:02 2 me to take once I had that information.
10:35:04 3
10:35:06 4 Does it surprise you then that those who were participating
10:35:12 5 in those cases, that is prosecutors, defence, well
10:35:15 6 certainly prosecutors, were not made aware of those
10:35:20 7 important pieces of information?---Yes, I do, I find that
10:35:23 8 surprising and I would have liked to have at least, you
10:35:28 9 know, you would have at least would have wanted them to be
10:35:31 10 aware there was an issue that might lead to some delay.
10:35:34 11
10:35:36 12 It would have certainly been appropriate, wouldn't it, to
10:35:43 13 consider, for the prosecution to consider, as did the
10:35:47 14 prosecution, Mr Beale, now Justice Beale in the case of
10:35:51 15 Dale, whether or not charges should proceed or whether or
10:35:55 16 not charges should be withdrawn because there's information
10:35:58 17 which might cause - I withdraw that. In the case of Dale
10:36:05 18 you withdrew, you ordered the withdrawal of six charges
10:36:10 19 involving Gobbo?---Yes.
10:36:10 20
10:36:11 21 You took the view that in order for justice to be served
10:36:15 22 those charges should not proceed, correct?---Correct.
10:36:18 23
10:36:19 24 And the reason, you say, is, "Because we didn't want to
10:36:22 25 reveal Ms Gobbo's role as a human source"?---Well I was
10:36:26 26 concerned about her safety in terms of revealing her as a
10:36:30 27 human source to Dale at that stage and I was concerned
10:36:33 28 about her safety.
10:36:34 29
10:36:34 30 So that was the concern in relation to that proceeding but
10:36:37 31 why wouldn't there have been similar concerns in relation
10:36:40 32 to other proceedings?---Well there were.
10:36:42 33
10:36:43 34 What you say to the Commission is, "Well look, I'm
10:36:46 35 surprised that in relation to Mokbel's application to
10:36:51 36 change his plea and prosecutions in Inca, I'm surprised
10:36:54 37 that those people didn't get the information that I
10:36:57 38 had"?---Well I acted in terms of making sure that the Dale
10:37:00 39 prosecution didn't go ahead in relation to the more broad
10:37:03 40 issues that she was informing on that weren't related to
10:37:07 41 the Driver Task Force. I made sure that the Deputy
10:37:10 42 Commissioner, head of legal services knew about that and
10:37:13 43 they could have then taken action in relation to - you
10:37:16 44 know, more broadly in relation to other prosecutions.
10:37:17 45
10:37:18 46 Mr Ashton, can I suggest to you that the steps that were
10:37:21 47 taken subsequent to the receipt of that information were

10:37:24 1 not about disclosing information to prosecutors or anyone
10:37:30 2 else, it was about keeping a lid on this and making sure
10:37:33 3 that people did not find out about Ms Gobbo's role and
10:37:36 4 Victoria Police's role, can I suggest that that's what
10:37:39 5 happened?---No.
10:37:40 6
10:37:41 7 And indeed, if you were serious that you were concerned
10:37:44 8 about appropriate disclosure being made, if that was your
10:37:47 9 real concern, then appropriate disclosure would have been
10:37:51 10 made rather than an attempt to conceal, I suggest, what has
10:37:55 11 occurred since you became aware of this
10:37:58 12 information?---There was no attempt to conceal.
10:38:00 13
10:38:04 14 Can I ask you a little bit about your background,
10:38:15 15 Mr Ashton. You were I think a member of the Federal Police
10:38:20 16 force and you started in about 1980 or thereabouts, is that
10:38:24 17 right?---Yes.
10:38:25 18
10:38:28 19 And you had various responsibilities during your period in
10:38:42 20 the Federal Police force and you became an investigator I
10:38:45 21 think in about 1985 and the Detective training in the
10:38:52 22 Federal Police force went over about two or three years, is
10:38:54 23 that right?---Yes, correct.
10:38:56 24
10:38:56 25 I assume that training involved the usual sorts of
10:39:00 26 investigative processes and procedures that you learn as an
10:39:04 27 investigator, correct?---Yes.
10:39:05 28
10:39:06 29 And you would have also had training, I suppose, in fairly
10:39:12 30 fundamental principles of the criminal law?---Yes.
10:39:15 31
10:39:15 32 Admissibility of evidence, those sorts of things?---Yes.
10:39:17 33
10:39:18 34 Rights of accused persons or suspects, those matters would
10:39:23 35 have been - - - ?---Yes.
10:39:23 36
10:39:26 37 And you would have been well aware of your obligations as a
10:39:32 38 police officer and as a Detective to provide people with
10:39:37 39 appropriate legal representation when the circumstances
10:39:41 40 called for it, independent legal representation?---Yes.
10:39:45 41
10:39:47 42 You were promoted to a position of Detective Sergeant in
10:39:51 43 1990 and then Acting Superintendent in 95, is that
10:39:54 44 right?---Yes.
10:39:55 45
10:39:55 46 In about 98 you were appointed as director of operations
10:40:03 47 support based in Brisbane for the AFP's northern region, is

10:40:08 1 that right?---Yes.

10:40:08 2

10:40:09 3 And that included responsibility for Queensland and
10:40:15 4 Northern Territory, Torres Strait and during that period
10:40:19 5 you were promoted to Commander, is that right?---Correct.

10:40:22 6

10:40:22 7 In that period you reported to Simon Overland, is that
10:40:26 8 right?---Yes.

10:40:26 9

10:40:27 10 He was the Assistant Commissioner in the northern region
10:40:30 11 and he was also based in Brisbane at the time that you were
10:40:33 12 there?---Yes.

10:40:33 13

10:40:34 14 When did you first meet Mr Overland?---It was at that time
10:40:38 15 that I arrived in Queensland as the Director Operations
10:40:42 16 Support based in Brisbane and Simon was the Assistant
10:40:47 17 Commissioner in charge of that region and at the time of
10:40:50 18 commencement there, which was 1990, it might have been
10:40:57 19 early 1998 or something around that time.

10:41:00 20

10:41:01 21 You worked I assume fairly closely with Mr Overland?---He
10:41:05 22 was the person that I reported to.

10:41:06 23

10:41:08 24 And did that persist for about 12 months or more?---Yes.

10:41:14 25

10:41:17 26 And later you became, I think, Director of Operations in
10:41:20 27 the southern region in about 99, is that right?---Yes, I
10:41:24 28 also performed the role of Director Operations Northern as
10:41:28 29 well and then subsequent to that I went to Melbourne as the
10:41:32 30 Director Operations.

10:41:34 31

10:41:35 32 How would you describe your relationship with Mr Overland
10:41:38 33 at about that time?---It was cordial, professional, I think
10:41:42 34 we got on pretty well together in that direct reporting
10:41:46 35 relationship.

10:41:47 36

10:41:47 37 You respected him as a police officer?---Yes.

10:41:50 38

10:41:50 39 Did you feel that respect was returned?---I believe so,
10:41:53 40 yes.

10:41:53 41

10:41:58 42 Was it only that period that you worked with Mr Overland in
10:42:01 43 a direct way during the course of your period of the AFP -
10:42:06 44 - - ?---Yes.

10:42:07 45

10:42:09 46 Then were you involved in various, in a managerial capacity
10:42:19 47 in drug operations in the southern region when you became

10:42:23 1 director of operations?---Yes.

10:42:26 2

10:42:29 3 At a previous hearing I think before Mr Kellam you said
10:42:35 4 that you believed that you may have had a recollection of
10:42:39 5 dealing with Ms Gobbo in the past. Do you still have that
10:42:43 6 recollection?---Yeah, I had trouble recalling anything
10:42:47 7 specific but I've just got a feeling at one stage in a drug
10:42:51 8 case of some sort she may have cross-examined me as a
10:42:54 9 witness.

10:42:55 10

10:42:56 11 In any event, I think your view was, certainly before
10:42:59 12 Mr Kellam, that it was in the first half of the 90s, 90 to
10:43:04 13 95. Certainly as far as we know Ms Gobbo was admitted in
10:43:08 14 about 98, 99, came to the Bar in 99, so it's unlikely she
10:43:13 15 would have cross-examined you back then?---Yes.

10:43:15 16

10:43:15 17 But it may well be that in around the period that you were
10:43:18 18 in Melbourne that you had some dealings with her in the
10:43:22 19 late 1990s, early 2000s?---No, I must have mistaken it for
10:43:27 20 someone else back then because I don't think I gave any
10:43:31 21 evidence in any court matters in that period.

10:43:33 22

10:43:33 23 No, but you were certainly involved at least in a
10:43:37 24 managerial way. There is evidence the Commission has that
10:43:40 25 you authorised telephone interception of Mr Mokbel's phones
10:43:45 26 in about 2001?---2001?

10:43:50 27

10:43:50 28 Yes?---Yeah, well I would have been in that, in that role
10:43:53 29 at that time so it could well have been in that process.

10:43:57 30

10:43:57 31 You would have been aware at about that time there were
10:44:01 32 activities, either investigations and/or prosecutions of
10:44:05 33 Mr Mokbel, if not Mokbel, his associates, in around that
10:44:10 34 period?---Investigations, yes.

10:44:12 35

10:44:12 36 And it may well be that you were aware, if that was the
10:44:16 37 case, that Ms Gobbo was acting for those sorts of people at
10:44:21 38 around that time?---I don't have a recollection of being
10:44:25 39 aware of that at that time.

10:44:26 40

10:44:26 41 You don't have a recollection?---No.

10:44:27 42

10:44:31 43 Were you aware of the Ceja investigations in the drug force
10:44:41 44 in Melbourne, into the Drug Squad in Melbourne when you
10:44:44 45 were in Melbourne for the Federal Police force?---Only in
10:44:48 46 the newspapers and what was in the public arena.

10:44:51 47

10:44:57 1 In 2004 you were appointed as the assistant director of the
10:45:09 2 new position of the OPI, is that right?---Yes.
10:45:13 3
10:45:15 4 And you were the assistant director to Mr Brouwer, is that
10:45:21 5 correct?---Yes. Mr Taylor as well. John Taylor was I
10:45:29 6 think my direct report at that early time.
10:45:33 7
10:45:33 8 In any event as we understand it the OPI was set up in
10:45:39 9 about November of 2004 and the OPI at that stage, the
10:45:47 10 Director of the OPI was Mr Brouwer, George Brouwer?---Yes.
10:45:51 11
10:45:51 12 And you were the assistant director at the OPI?---Yes.
10:45:54 13
10:45:55 14 And Mr Brouwer at that stage was also the Ombudsman?---Yes.
10:46:00 15
10:46:01 16 He had significant responsibilities, so as well as being
10:46:04 17 the Ombudsman he was also the Director of police
10:46:09 18 integrity?---Yes.
10:46:10 19
10:46:10 20 And your role was in effect, I suggest, to manage the
10:46:15 21 investigations that were being undertaken by the OPI, would
10:46:19 22 that be right?---Yes.
10:46:21 23
10:46:23 24 And can I suggest to you it was a significant
10:46:30 25 responsibility that you had because you were engaged to be
10:46:36 26 the person who was in effect in charge of the investigative
10:46:41 27 arm of the Office of Police Integrity, is that
10:46:46 28 right?---Yes, I was not sort of doing investigations in the
10:46:51 29 main course of events but I was in charge of that activity.
10:46:54 30
10:46:57 31 You continued to be the assistant director until December
10:47:01 32 of 2009, is that right?---Yes.
10:47:05 33
10:47:05 34 A five year stint. Now, on 30 April I think 2008,
10:47:14 35 Mr Brouwer ceased being the Director and I think Mr Strong
10:47:19 36 took over as the Director. He at that stage became the
10:47:22 37 person who was the Director. That was his sole
10:47:25 38 responsibility, to be the Director of the OPI?---Yes.
10:47:28 39
10:47:28 40 He wasn't sharing it with other responsibilities as
10:47:32 41 Ombudsman, he was solely focusing on the OPI?---Correct.
10:47:38 42
10:47:39 43 The function of the OPI was an independent oversight body,
10:47:45 44 is that correct?---Yes.
10:47:46 45
10:47:46 46 It was independent of Victoria Police?---Yes.
10:47:48 47

10:47:50 1 The importance of it was that its task was to ensure,
10:47:59 2 effectively, to put it into lay terms, that the police were
10:48:02 3 acting appropriately?---You know, misconduct, serious
10:48:09 4 corruption, corruption would be investigated, all within
10:48:12 5 the interests of making sure Victoria Police was operating
10:48:17 6 free of corruption, yes.
10:48:18 7
10:48:18 8 Right. And the role of the OPI was either to take up and
10:48:26 9 investigate complaints which had been made to it,
10:48:29 10 correct?---Yes, and also to oversight complaint handling by
10:48:35 11 Victoria Police.
10:48:36 12
10:48:36 13 Oversight ESD operations?---Yes.
10:48:38 14
10:48:39 15 Oversight that. If there were concerns on the part of OPI
10:48:41 16 it could initiate its own motion investigations,
10:48:46 17 correct?---Correct.
10:48:47 18
10:48:47 19 And own motion investigations were - can you explain what
10:48:48 20 they were?---They would be investigations that the Director
10:48:51 21 would determine that we would conduct and he would need to,
10:48:55 22 it didn't involve say a complaint oversight, that would
10:48:59 23 require actual investigation and so he would authorise that
10:49:04 24 through an instrument which was initiating an own motion
10:49:08 25 investigation.
10:49:09 26
10:49:10 27 So if there was a concern that Victoria Police was engaging
10:49:16 28 in improper, illegal conduct then that could well be the
10:49:21 29 subject of an investigation?---Yes.
10:49:24 30
10:49:24 31 If the OPI took the view, not because of any complaint that
10:49:29 32 had been made, but took the view off its own bat that
10:49:33 33 something was going wrong, then that could be the subject
10:49:36 34 of an own motion investigation?---Yes.
10:49:38 35
10:49:39 36 Do you accept that those powers and those obligations of
10:49:42 37 the OPI were very important obligations and had to be
10:49:46 38 exercised very carefully to ensure that Victoria Police
10:49:51 39 acted in accordance with its Charter?---Yes.
10:49:53 40
10:49:54 41 Are you aware that around that time, at the time that you
10:49:58 42 started, there were calls for Royal Commissions into the
10:50:02 43 conduct of Victoria Police?---Yes.
10:50:03 44
10:50:04 45 There had recently been that Ceja investigations that I've
10:50:08 46 just referred to into the Drug Squad?---Yes.
10:50:11 47

10:50:11 1 The corruption in the Drug Squad?---Yes.
10:50:14 2
10:50:14 3 And there was a very real concern in the public that there
10:50:17 4 should be a proper investigatory or oversight organisation
10:50:22 5 which independently examined the conduct of Victoria
10:50:25 6 Police?---Yes.
10:50:26 7
10:50:26 8 And you understood that you were a very important part of
10:50:29 9 that task in taking up your position at the OPI?---Yes.
10:50:34 10
10:50:34 11 All right. When you started at the OPI you became aware,
10:50:52 12 did you, that there had been an investigation or that the
10:50:58 13 Victoria Police were carrying out an investigation into two
10:51:05 14 murders, those of Terrence Hodson and his wife Christine
10:51:11 15 who had been killed on about 15 May 2004?---Correct.
10:51:14 16
10:51:15 17 And there was also a specific involvement of the OPI in
10:51:20 18 that an IR, an information report which drew attention to
10:51:25 19 Mr Hodson's role as a human source had been
10:51:29 20 published?---Yes.
10:51:29 21
10:51:30 22 And it had found its way into the media?---Yes.
10:51:34 23
10:51:34 24 And are you aware that very soon after, indeed on the day
10:51:42 25 that the OPI commenced on 16 November 2004, Mr Brouwer
10:51:48 26 initiated an own motion investigation into the manner in
10:51:59 27 which or the way in which that IR had escaped from Victoria
10:52:05 28 Police custody?---Yes.
10:52:06 29
10:52:16 30 You say that your involvement in this operation, or at
10:52:26 31 least in this investigation, commenced early in 2005, is
10:52:29 32 that right?---Correct.
10:52:31 33
10:52:35 34 How did that come about? What's your recollection as to
10:52:39 35 how you became involved in that investigation?---I became
10:52:46 36 aware of it because I was aware the investigation had
10:52:49 37 already commenced at the OPI before I arrived.
10:52:51 38
10:52:51 39 Yes?---And that there was a Homicide Squad investigation
10:52:56 40 being conducted by Victoria Police into the murder of the
10:52:58 41 Hodsons.
10:52:59 42
10:52:59 43 Yes?---And the Director basically asked me to make sure
10:53:04 44 that our investigation, or his investigation of this IR 44
10:53:11 45 didn't interfere with in terms of clash with or duplicate
10:53:15 46 or run over the top of this Homicide investigation and we
10:53:19 47 should also be aware of how this Homicide investigation was

10:53:22 1 going and what progress was it making.
10:53:25 2
10:53:25 3 Right?---So he asked me to sort of make sure that would
10:53:29 4 happen so I initiated that by setting up a meeting down at
10:53:34 5 the Crime Command of Victoria Police.
10:53:35 6
10:53:37 7 And I think you say you contacted Mr Overland or he
10:53:41 8 contacted you?---Yes, I contacted Mr Overland and asked for
10:53:45 9 a meeting.
10:53:45 10
10:53:47 11 Do you recall - you obviously knew at that stage
10:53:51 12 Mr Overland had become a member of Victoria Police in about
10:53:55 13 2003?---Correct.
10:53:56 14
10:53:58 15 When you applied for your position at the OPI did you have
10:54:01 16 any referees, do you recall who they were?---Gee, I don't
10:54:07 17 remember what referees I would have used. I probably did
10:54:10 18 have referees when I applied.
10:54:13 19
10:54:13 20 Do you think Mr Overland might have been one of them?---He
10:54:17 21 may have been, I don't remember.
10:54:18 22
10:54:18 23 Would you describe yourself as a friend of his at that
10:54:21 24 stage?---Someone I knew in a professional context more than
10:54:26 25 someone I was friends with in the social world. But yeah,
10:54:29 26 I knew him and had had a good working relationship with him
10:54:36 27 previously.
10:54:37 28
10:54:37 29 In any event you say that you contacted him and you set up
10:54:40 30 a meeting, is that right?---Yes.
10:54:42 31
10:54:49 32 That investigation, or your role in that investigation, as
10:54:52 33 far as you were aware was it confined to an examination of
10:54:56 34 IR 44 and how it came into the public domain or was it a
10:55:01 35 more broad investigation?---It was really an investigation
10:55:04 36 into IR 44, how it made its way out of the Drug Squad and
10:55:10 37 into the hands of the criminal milieu.
10:55:13 38
10:55:14 39 You attended a meeting at the St Kilda Road police station
10:55:17 40 with Mr Overland, and also I think there were members of
10:55:20 41 the Homicide Squad there, you recall Mr Bezzina and another
10:55:24 42 member there whose name you can't recall?---Correct.
10:55:27 43
10:55:27 44 Might have been Mr Davey?---Could have been.
10:55:29 45
10:55:30 46 You received a briefing about their investigation?---Yes.
10:55:35 47

10:55:35 1 Did you receive information from them about how they were
10:55:40 2 carrying out their investigation and what they were doing
10:55:44 3 to further their investigation?--Yes.
10:55:46 4
10:55:48 5 And did you keep a record of all of the things that they
10:55:52 6 were doing in their investigation?---There would have been
10:55:58 7 documents in terms of they provided me with some videotapes
10:56:07 8 and I think we got some other material but not at that
10:56:10 9 actual meeting, there was just an agreement I would be
10:56:12 10 provided with material.
10:56:13 11
10:56:14 12 Did you ever provide a report which was by way of an
10:56:18 13 oversight report as to how that operation was conducted and
10:56:21 14 whether it was conducted appropriately or not?---I don't
10:56:25 15 remember with any specificity whether I did or didn't back
10:56:30 16 then, at what point.
10:56:31 17
10:56:31 18 I'm trying to understand what you did by way of oversight.
10:56:37 19 What was the nature of the oversight that the OPI
10:56:40 20 provided?---We were doing the IR 44 investigation at that
10:56:43 21 time and we were just making sure that the, Victoria Police
10:56:47 22 could do their Homicide investigation and understanding
10:56:51 23 where that was at was what we were trying to make sure we
10:56:55 24 were doing.
10:56:55 25
10:56:55 26 Yes?---In relation to it.
10:56:58 27
10:56:59 28 You know it's been suggested, or you may or may not know
10:57:03 29 it's been suggested that ultimately one of the problems
10:57:05 30 with the OPI's role or conduct in those days with these
10:57:11 31 joint investigations, in fact the OPI let its guard down if
10:57:16 32 you like by getting itself involved in investigations as
10:57:21 33 co-investigators rather than operating as a strictly
10:57:24 34 oversight organisation. Are you aware of those sorts of
10:57:28 35 issues that have been raised?---I'm only aware from late
10:57:32 36 last week I saw or read Ken Jones' statement. That's the
10:57:37 37 only time I've seen that mentioned.
38
10:57:40 39 Is that the first time that you've heard that the
10:57:44 40 co-investigation or joint agency agreements that were
10:57:46 41 entered into may well be not strictly oversight role and
10:57:49 42 cause problems?---Yes.
10:57:50 43
10:57:52 44 You didn't perceive that to be a concern at the time?---No.
10:57:56 45
10:57:57 46 You didn't perceive it to be a concern that if you were
10:58:01 47 supposed to be keeping an oversight role of people such as

10:58:05 1 Mr Overland, you're in effect becoming a co-investigator
10:58:09 2 with Mr Overland, did that not cause you any concern?---The
10:58:14 3 context at the time when OPI started, it only had a small
10:58:19 4 number of investigators and it had a large task to do, and
10:58:22 5 there was, it was determined that we would have our own
10:58:27 6 independent investigations and there were many independent
10:58:29 7 investigations conducted that had no involvement with
10:58:32 8 Victoria Police. Some investigations it was seen that it
10:58:35 9 would be more effective to do that in the collaborative
10:58:40 10 context with the Ethical Standards Department and that
10:58:43 11 would lead to us being able to get quicker access to
10:58:47 12 information, better understanding of what was happening in
10:58:50 13 Victoria Police. And we also at that time had Victoria
10:58:52 14 Police investigators that were seconded across to the OPI
10:58:55 15 so again they had existing relationships that we could
10:59:00 16 potentially leverage off in terms of knowing what was
10:59:02 17 happening within Victoria Police, who was where and that
10:59:04 18 sort of thing. So there were occasions when it was thought
10:59:07 19 it was appropriate to have joint investigations but that
10:59:10 20 wasn't in the context of us not being in the position to
10:59:13 21 criticise Victoria Police, we were critical of Victoria
10:59:17 22 Police on many occasions in many of the reports that the
10:59:20 23 OPI published.
10:59:21 24
10:59:21 25 Some of major joint investigations were Briars and Petra.
10:59:27 26 They were significant joint investigations, weren't
10:59:30 27 they?---Yes.
10:59:30 28
10:59:32 29 Were you ever critical of the role of Victoria Police in
10:59:36 30 either of those investigations?---I wasn't, no.
10:59:41 31
10:59:42 32 Did you ever submit any concerns to the Director, either
10:59:49 33 Mr Brouwer or Mr Strong which suggested that there were
10:59:53 34 aspects of the investigation or the way in which they were
10:59:56 35 carrying out those investigations which were of concern to
11:00:00 36 you?---No.
11:00:00 37
11:00:01 38 Was it your understanding or did you have a view as to
11:00:04 39 whether or not senior members of Victoria Police would
11:00:08 40 self-report, whether they would say to you, "Look, you
11:00:12 41 should be aware that we've got some concerns about a
11:00:17 42 particular aspect of an investigation or particular conduct
11:00:20 43 of the person involved in the investigation", is that
11:00:23 44 something that would occur?---That was certainly open for
11:00:27 45 any police officer to do that with the OPI and indeed we at
11:00:32 46 one stage had a hot line set up if any police officer
11:00:35 47 wanted to do that and that would certainly be true of

11:00:38 1 police Command as well.

11:00:39 2

11:00:39 3 Do you accept that that would be a difficult thing to do,
11:00:42 4 if you're in a co-investigatory role with members of the
11:00:47 5 Victoria Police Force it would be a fairly thing for them
11:00:48 6 to do, to say, "By the way, you should be aware I'm not
11:00:52 7 happy with the way in which we've been conducting this
11:00:56 8 investigation and you should investigate us"?---No, not at
11:01:00 9 all, that wouldn't be difficult for them, no.

11:01:01 10

11:01:01 11 You don't think it would be?---No.

11:01:02 12

11:01:02 13 Ultimately we'll get to the point but there are criticisms
11:01:06 14 that might be made of the way in which Petra and Briars
11:01:11 15 carried out its task, particularly with respect to the use
11:01:15 16 of Ms Gobbo, do you follow that?---Yes.

11:01:17 17

11:01:17 18 And these two investigations were using a barrister as a
11:01:22 19 human source and it might be said, "Well, simply saying
11:01:29 20 those two things in a sentence might raise concerns", do
11:01:33 21 you accept that proposition?---Raise concerns? No, not as
11:01:42 22 such, no. I don't accept that proposition.

11:01:44 23

11:01:44 24 You never had any concern that the investigators in either
11:01:48 25 Petra and/or Briars were using a barrister as a registered
11:01:53 26 human source, that never caused you any concern at
11:01:56 27 all?---Not from a point of view of any impropriety, no.

11:02:02 28

11:02:03 29 We'll come back to that. You say that it was only when you
11:02:18 30 read Mr Jones' statement that you realised that there was a
11:02:27 31 concern that was broad that the possibility of joint
11:02:31 32 investigations with the regulator and the regulated could
11:02:37 33 be problematic, that was the first time you'd heard
11:02:40 34 anything like that?---I think the OPI had been regularly
11:02:42 35 the subject of criticism in one form or another over years,
11:02:47 36 but to that very issue of joint investigations being an
11:02:52 37 issue, I don't remember that previously being canvassed.

11:02:55 38

11:02:56 39 So whilst you say the OPI had been criticised over the
11:02:59 40 year, I'm asking you specifically to focus on any concerns
11:03:03 41 or criticisms, discussions that may have been held about
11:03:07 42 joint investigations where OPI and police are carrying out
11:03:12 43 co-investigatory roles. You say no, is that right?---I
11:03:15 44 don't recall any.

11:03:15 45

11:03:24 46 You would have read Mr Jones' statement in which he said
11:03:28 47 that, "The OPI was an agency created to regulate Victoria

11:03:34 1 Police, not get involved in joint investigations with
11:03:35 2 them". What do you say about that suggestion?---The OPI
11:03:38 3 was created to try and make sure that Victoria Police was
11:03:42 4 corruption free and misconduct was managed.
11:03:46 5
11:03:46 6 I understand that, but what do you say about the
11:03:48 7 proposition that the OPI was created to regulate and not
11:03:52 8 get involved in joint investigations?---No, I didn't see
11:03:56 9 that written anywhere.
11:03:57 10
11:03:57 11 Okay. Regardless of it not being written, it wasn't a
11:04:01 12 matter that occurred to you as being problematic?---No, it
11:04:05 13 was a reality at that time where if you wanted to be - have
11:04:09 14 any effect, as I said, given where we were at at that time
11:04:13 15 as a fledgling body, it was necessary in terms to make sure
11:04:18 16 that the organisation could be effective quickly and not
11:04:21 17 take years to develop the necessary expertise as is
11:04:26 18 currently the case.
11:04:28 19
11:04:28 20 Another thing that Mr Jones said and may well say, that an
11:04:31 21 investigation about which complaints and challenges were
11:04:36 22 later made, I think it was Operation Diana, you're aware of
11:04:39 23 that?---Yes.
11:04:40 24
11:04:40 25 "The OPI as co-investigators were by then fully involved
26 and were unable to discharge their duty as an independent
11:04:45 27 regulator of the Force", in effect he says, "We sink or
11:04:50 28 swim together"?---Yes.
11:04:51 29
11:04:52 30 You disagree with that?---Yes, OPI - Operation Diana wasn't
11:04:57 31 done with Victoria Police, it was independently done.
11:05:00 32
11:05:00 33 All right. Did you understand that in late 2009 Mr Jones
11:05:06 34 did in fact raise his concerns over the joint doctrine of
11:05:11 35 operations with Mr Strong in about late 2009?---No.
11:05:16 36
11:05:17 37 Were you aware that Mr Jones, Ken Jones, Deputy
11:05:25 38 Commissioner, in effect ended the joint work so that the
11:05:31 39 OPI could properly do their job and the police could be
11:05:35 40 properly regulated by the OPI rather than jointly
11:05:38 41 investigating with them?---No.
11:05:40 42
11:05:43 43 Are you aware that IBAC has said that it would not be
11:05:47 44 involved in joint investigations with Victoria
11:05:51 45 Police?---I'm aware that IBAC has a model that doesn't
11:05:55 46 include that, yes.
11:05:56 47

11:05:56 1 Do you understand why?--Well I understand that they have
11:06:01 2 that and I understand what their reasons are behind that.
11:06:03 3
11:06:03 4 You do understand?---Yes.
11:06:04 5
11:06:05 6 What are they?---They don't want to be seen to be involved
11:06:08 7 with Victoria Police, they want to be completely removed
11:06:12 8 from Victoria Police.
11:06:12 9
11:06:13 10 Do you understand the justification or the principles for
11:06:15 11 that?---Yes.
11:06:15 12
11:06:17 13 In effect they're the sorts of things that Ken Jones is
11:06:22 14 talking about, isn't it?---Yes, but again that was a
11:06:25 15 different circumstance back then because we had issues that
11:06:28 16 were afoot with police corruption and the need to deal with
11:06:32 17 them quickly. If you had your perfect world then you would
11:06:36 18 want to be completely independent, but the reality is we
11:06:39 19 weren't in that environment back in that time.
11:06:41 20
11:06:41 21 What's the difference? I mean, you've got potential police
11:06:47 22 corruption or misbehaviour and you've got an oversight
11:06:50 23 organisation. What's the difference between then and
11:06:53 24 now?---As I explained to you before, there was a need to be
11:06:58 25 able to move quickly to deal with police corruption matters
11:07:01 26 and we only had a small fledgling organisation that didn't
11:07:06 27 have the full degree of experience and skill sets and
11:07:09 28 access to information that assisted us to do that. Another
11:07:14 29 problematic factor was the legislation around information
11:07:17 30 gathering that was available to the OPI in that we weren't
11:07:20 31 able to get access to information systems from the OPI,
11:07:23 32 from the Victoria Police at that time and the best way to
11:07:27 33 get access to some of that information was to do it in a
11:07:31 34 collaborative way with Victoria Police.
11:07:32 35
11:07:35 36 Effectively what you're saying is because of the exigencies
11:07:39 37 at the time, the legislation available to you, you were
11:07:43 38 forced in effect to operate in a much more collaborative
11:07:48 39 way than ideally would be the situation?---Yes.
11:07:55 40
11:07:55 41 Ultimately because that wasn't ideal it did mean, I suggest
11:08:00 42 to you, that there was not the degree of independent
11:08:02 43 oversight that there should have been?---No, I disagree.
11:08:05 44
11:08:06 45 You disagree with that?---Absolutely disagree with that.
11:08:08 46
11:08:09 47 How do you disagree with that if you've accepted that the

11:08:13 1 situation wasn't ideal?---Because I think we managed that
11:08:15 2 situation very well. I think that we were engaging in
11:08:17 3 operations where we needed to. At the same time we were
11:08:20 4 able to do our own independent investigations as we needed
11:08:25 5 to as well and exercise that independence.
11:08:27 6
11:08:27 7 When you became aware of what was going on in this
11:08:34 8 investigation into the murders of the Hodsons, I take it
11:08:38 9 you became aware of Ms Gobbo's involvement in the factual
11:08:46 10 transactions around that time, is that right?---No.
11:08:53 11
11:08:55 12 Perhaps I can be more specific. It became apparent to you,
11:09:00 13 didn't it, in early 2005, that Ms Gobbo had potentially a
11:09:09 14 relationship with Mr Dale?---Not in 05, no.
11:09:13 15
11:09:14 16 No. Early 05, you weren't aware of that?---No, I don't
11:09:17 17 believe so.
11:09:18 18
11:09:20 19 Did you not interview Mr Murray Gregor on 16 February
11:09:29 20 2005?---Yes, I did.
11:09:30 21
11:09:31 22 In that interview can I suggest to you that you learnt a
11:09:36 23 significant amount of information about Ms Gobbo and her
11:09:40 24 involvement in the actions or the activities around the
11:09:47 25 period of time that Mr Dale was arrested and prior to that
11:09:50 26 the Dublin Street burglary, Operation Gallop and so forth,
11:09:54 27 you were aware of that surely, weren't you?---I think I was
11:09:57 28 aware that she had a relationship with Dale, yeah.
11:10:01 29
11:10:04 30 And indeed, I think no doubt you would have been armed with
11:10:10 31 information that you'd been provided with by Victoria
11:10:15 32 Police, you interviewed Mr Gregor who was the ESD
11:10:24 33 investigator, wasn't he?---Yes.
11:10:25 34
11:10:25 35 I think on 16 February 2005 you and a person by the name of
11:10:30 36 Caine conducted an informal interview of Mr Gregor about
11:10:34 37 his knowledge of Hodson, Dale, Miehchel, Gobbo,
11:10:37 38 et cetera?---Yes.
11:10:37 39
11:10:38 40 Do you accept that?---Yes.
11:10:39 41
11:10:39 42 So it would be the case then that around this time you were
11:10:42 43 starting to look into the affairs of Ms Gobbo?---Well, it
11:10:47 44 was in relation to IR 44 and that was within the conduct of
11:10:50 45 that interview taking place.
11:10:52 46
11:10:53 47 Right?---And her name came up at that sort of stage in

11:10:56 1 relation to the IR 44 investigation, yeah.
11:10:58 2
11:10:59 3 We've got a transcript of the interview and I think it's
11:11:01 4 about an 18 or 19 page interview and her name is mentioned
11:11:07 5 about 75 times, does that surprise you?---Yeah, it came up
11:11:11 6 during that interview, yes.
11:11:12 7
11:11:12 8 What you were told by Mr Gregor is that Ms Gobbo had
11:11:18 9 appeared on behalf of a number of the Operation Gallop
11:11:22 10 targets, a person by the name of Azzam Ahmed, do you
11:11:28 11 remember him?---I remember that name, yes.
11:11:29 12
11:11:30 13 And he then subsequently became quite a significant figure
11:11:33 14 in the investigations carried out by Petra and Oboe, do you
11:11:38 15 accept that?---I had since forgotten his name but I more
11:11:42 16 recently refreshed my memory as to him, yes.
11:11:45 17
11:11:45 18 And that she had acted for a number of Operation Gallop
11:11:50 19 targets including Ahmed, Abby Haynes, do you recall that
11:11:55 20 name?---No.
11:11:56 21
11:11:56 22 And Tony Mokbel?---Yes, Tony Mokbel.
11:11:58 23
11:11:58 24 You learnt she had a relationship with Paul Dale?---Yes.
11:12:01 25
11:12:02 26 At least that's what Mr Gregor told you. And that Hodson,
11:12:06 27 it was suggested, would pass messages to Mr Dale through
11:12:11 28 Nicola Gobbo, that was something that you'd learnt?---It
11:12:16 29 was probably - I don't have a specific recollection of that
11:12:19 30 interview but if you're telling me that's the case I'm
11:12:22 31 happy to accept that.
11:12:23 32
11:12:23 33 What I can suggest to you is that, and I'm happy to put
11:12:29 34 this interview up on the screen, but if we can avoid that,
11:12:33 35 I'm happy to do that also, if you accept what I'm
11:12:36 36 saying?---Yes, yes.
11:12:37 37
11:12:39 38 It was suggested, or at least you were told by Mr Gregor
11:12:43 39 that Ms Gobbo had appeared for a number of the Operation
11:12:48 40 Gallop targets who had been arrested and are either
11:12:52 41 currently on remand or on bail. You were aware, he told
11:12:57 42 you that Mr Gregor said that he was aware that Nicola Gobbo
11:13:04 43 had been, has been representing Tony Mokbel in court
11:13:09 44 matters that he had been present at, indeed he said he was
11:13:13 45 subpoenaed to attend one of Mokbel's hearings, he thought
11:13:15 46 it was a discovery hearing or something like that, prior to
11:13:18 47 the committal at the Melbourne Magistrates' Court, and

11:13:21 1 Mr Mokbel had subpoenaed material relating to David Miechel
11:13:26 2 and he was aware that Ms Gobbo had come and viewed the
11:13:30 3 material. So you were aware, what I'm suggesting to you,
11:13:33 4 is at that stage that Gobbo was acting for people such as
11:13:37 5 Tony Mokbel?---Yes.
11:13:38 6

11:13:41 7 And further in the interview, can I suggest, in fact I am
11:13:48 8 happy to put this up, Commissioner. IBAC.0010.0001.1078.
11:14:02 9 If we go to p.8 of it. If you go to the bottom you'll see
11:14:15 10 that, "Terry Hodson told us that he'd heard that Paul Dale
11:14:20 11 had some sort of sexual relationship with Nicola Gobbo. I
11:14:24 12 don't know how true it is but he believed there was a
11:14:27 13 relationship between Dale and Gobbo and he believed that by
11:14:30 14 using his contact with Gobbo that he could arrange a
11:14:33 15 meeting with Dale, so we obviously explained this area and
11:14:37 16 there was a number or there were a number of, and I
11:14:40 17 understand from information relayed to me by Terry Hodson,
11:14:43 18 he made a number of calls, had a number of meetings with
11:14:47 19 Nicola Gobbo where he attempted to arrange a meeting with
11:14:48 20 Paul Dale through her". Do you see that?---Yes.
11:14:50 21

11:14:50 22 And you also learnt, if we go through to p.9 and 15, that
11:14:59 23 Hodson would pass messages through Gobbo. If we go to line
11:15:04 24 15?---Yes.
11:15:12 25

11:15:12 26 Page 9 I think it is. That Dale, "He dealt with Jim Valos,
11:15:22 27 Nicola Gobbo to ensure that they believed he was not going
11:15:25 28 to cooperate, he was hanging tough basically that, you
11:15:28 29 know, for the other two being done and Miechel not to worry
11:15:29 30 about things and he passed messages on through Nicola Gobbo
11:15:32 31 and obviously this is information being relayed to me from
11:15:36 32 Terry Hodson and from the information Terry told me, he
11:15:39 33 said that he'd made contact with Nicola Gobbo and he would
11:15:43 34 be after making contact by phone or meeting, he would then
11:15:46 35 contact me and tell me, inform me what actually
11:15:50 36 transpired", do you see that?---Yes.
11:15:51 37

11:15:54 38 And then you say, at p.15, "As a consequence of those
11:15:57 39 meetings did it become obvious to you that there was a line
11:16:00 40 of communication that had been established between Dale and
11:16:02 41 Hodson that was to be established and that Gobbo was the
11:16:05 42 person that was the link in the chain of communication?"
11:16:10 43 So that's information you had back in early 2005,
11:16:14 44 correct?---Yes, I accept that, yep.
11:16:15 45

11:16:17 46 Mr Gregor agreed that, "The link in the chain was basically
11:16:24 47 running Hodson, Gobbo and there's another person by the

11:16:27 1 name of Argall who we've heard of, Dale and vice versa and
11:16:32 2 that's my belief from the information and our holdings with
11:16:35 3 ESD. And the other thing, can I suggest that you learnt
11:16:38 4 was that Mr Gregor was telling you that Mr Hodson and
11:16:46 5 Mr Miechel should roll over on Dale". Do you see that? If
11:16:51 6 we go to p.10 to 11. At line 20 - - - ?---I'm not sure
11:17:11 7 this accords with - which paragraph are you referring to?
11:17:15 8
11:17:16 9 Go down to line 15. "Spoke to Terry Hodson on telephone,
11:17:23 10 stated he'd arranged to meet with Nicola Gobbo"?---Yes.
11:17:26 11
11:17:27 12 "I have in my diary on 30 October 2003 rang Hodson re
11:17:30 13 meeting with Nicola Gobbo. 13:18, I've got rang Hodson,
11:17:37 14 updated re outcome of meeting with Nicola Gobbo. Hodson
11:17:38 15 states he will arrange meeting with Dale and Miechel.
11:17:41 16 Gobbo seen Dale 31 October". Then further down, "Stated
11:17:49 17 that he had seen Nicola", this is Peter De Santo, "Stated
11:17:55 18 he had seen Gobbo at Melbourne Cup, had a drink with her.
19 She asked if Paul Dale was a suspect. She stated she'd
11:17:59 20 seen Dale yesterday, being Monday. Believed that his
11:18:04 21 phones were off and he would be needing legal advice and
11:18:08 22 Gobbo appeared to be fishing around for information", do
11:18:12 23 you see that?---Yes.
11:18:13 24
11:18:14 25 Further down at the bottom of the page, "He stated that he
11:18:18 26 had met with Nicola Gobbo. Stated he wants to meet
11:18:21 27 tomorrow to discuss what transpired, meeting arranged at
11:18:25 28 Hawthorn 11.30 am. Stated Dale was very paranoid, didn't
11:18:27 29 want to meet until after holidays in three weeks. Gobbo
11:18:31 30 suggested that he and Miechel should roll on Dale". Gobbo
11:18:36 31 is suggesting that he, being Hodson, and Miechel should in
11:18:41 32 effect roll over on Dale, right?---Yep.
11:18:43 33
11:18:45 34 Now, were you also made aware that there was a suggestion
11:18:50 35 that Ms Gobbo was providing legal advice to Mr Dale?---It
11:18:58 36 was in the context of she was in a more broad relationship
11:19:05 37 than just providing legal advice, but yeah.
11:19:08 38
11:19:09 39 You were aware that there was a suggestion of a broad
11:19:11 40 relationship but you were also aware I suggest at that time
11:19:15 41 that when Dale was arrested on 5 December Mr Gregor was of
11:19:18 42 the view that Mr Dale had rung and spoken to
11:19:23 43 Ms Gobbo?---Yes.
11:19:23 44
11:19:24 45 And I take it you subsequently became aware that Ms Gobbo
11:19:31 46 attended upon Mr Dale when he was in custody? Were you
11:19:36 47 aware of that at that stage?---Well if it was in the, if it

11:19:42 1 was in that interview I would have been aware of it because
11:19:44 2 I was told it in the interview.
11:19:46 3
11:19:46 4 What I suggest to you is this: you've got information at
11:19:50 5 that stage, you're starting to build up a bit of a profile
11:19:54 6 about Ms Gobbo and you built up information about Ms Gobbo
11:19:58 7 over the years, but at this very first meeting you're
11:20:02 8 getting a flavour of the sort of barrister she is, that
11:20:05 9 she's a barrister who gets herself involved with lots of
11:20:08 10 people on different sides of the transaction, she's acting
11:20:12 11 for some of them, she's acting for others of them and
11:20:15 12 suggesting that they might roll on Mr Dale, and all of
11:20:20 13 that, I suggest to you, is giving you a bit of an idea of
11:20:23 14 the sort of person who Ms Gobbo is?---Yes.
11:20:25 15
11:20:27 16 It's a troubling picture I would suggest to you?---Yes.
11:20:31 17
11:20:33 18 But it's information which no doubt you kept with you and
11:20:36 19 took with you as you went along the way as you investigated
11:20:39 20 the various matters that needed looking into?---In terms of
11:20:47 21 a broad sense of what she was about, yes.
11:20:49 22
11:20:52 23 Subsequently I suggest when you become aware that she's a
11:20:55 24 human source, this is the sort of information that you're
11:20:58 25 aware of?---Yes.
11:20:59 26
11:21:01 27 And I suggest to you that it would have put you on your
11:21:08 28 guard and gave you pause to think, "Well look, I'm troubled
11:21:12 29 about the suggestion that this person is being used as an
11:21:16 30 informer", correct?---No, not as such, no.
11:21:21 31
11:21:21 32 Why not?---Because she's shown herself to be a member in
11:21:26 33 the criminal community engaging in these sorts of
11:21:29 34 activities as you said with different players involved in
11:21:33 35 different ways, so it wasn't someone that I thought of as
11:21:36 36 strictly being a lawyer/client type of person.
11:21:39 37
11:21:39 38 If she was purporting to act for people and then acting
11:21:44 39 against their interests, for example, by either informing
11:21:48 40 on them, that would be a matter of concern, wouldn't
11:21:52 41 it?---In relation to her conduct, yes.
11:21:53 42
11:21:53 43 And in relation to police conduct in using her as an
11:21:57 44 informer?---Well if she was in a position to provide
11:22:04 45 information because of that way that she was conducting
11:22:06 46 herself, no.
11:22:07 47

11:22:08 1 Was that the view you took?---At what point?
11:22:10 2
11:22:10 3 At the time?---I didn't know she was an informer at that
11:22:12 4 time.
11:22:13 5
11:22:13 6 After you did become aware that she was an informer?---Well
11:22:17 7 I first became aware she was an informer in 2007.
11:22:20 8
11:22:20 9 2007?---Yes.
11:22:21 10
11:22:22 11 And did it cause you any concern then when you learnt that
11:22:25 12 she was an informer?---Well it was with a view to her being
11:22:31 13 an informer for police and I knew that she was informing in
11:22:36 14 relation to what was at that time Task Force Petra, and in
11:22:41 15 that context, well she would have been someone who could
11:22:46 16 have provided quite a lot of useful information to the
11:22:48 17 police in relation to that.
11:22:49 18
11:22:50 19 All right. In any event so this interview, can I suggest,
11:22:54 20 makes it quite clear that there was at least a very real
11:22:57 21 concern that Ms Gobbo was acting as a legal advisor to
11:23:03 22 Mr Dale and that's information that would have been
11:23:06 23 available to you back in 2005?---She was, to my level of
11:23:11 24 knowledge at that time, she was someone who was acting for
11:23:16 25 a range of people associated with that and also engaging in
11:23:21 26 conduct with them which was not what you would normally
11:23:24 27 expect of a legal representative.
11:23:25 28
11:23:26 29 Did you have a view about a lawyer who would purportedly
11:23:29 30 act for a person and then act for other people suggesting
11:23:33 31 that those other people should roll over on him?---Yeah,
11:23:38 32 I'd take a dim view of that activity if that's what the
11:23:41 33 lawyer was doing, yes.
11:23:43 34
11:23:44 35 If police were in effect utilising that or trying to get
11:23:54 36 the benefit of that, that would be troubling, wouldn't
11:23:57 37 it?---In what context?
11:23:58 38
11:23:58 39 In any context?---Well if police were using information
11:24:02 40 from that human source to progress the investigation, what
11:24:08 41 would become the issue would be the disclosure of that.
11:24:11 42
11:24:13 43 Look, we've learnt that Ms Gobbo was utilised to provide
11:24:19 44 information against people which led to their arrest and
11:24:21 45 then subsequently advised them when they were arrested as
11:24:24 46 to what they should do. I take it you see an obvious issue
11:24:28 47 with that, don't you?---Yes.

11:24:29 1
11:24:29 2 It would be very wrong to permit that to occur?---It would
11:24:36 3 be wrong to permit that to occur and then not to disclose
11:24:41 4 that, yes.
11:24:41 5
11:24:42 6 I mean, to a significant extent that's what we've been
11:24:46 7 examining during the course of this year, that that
11:24:50 8 occurrence, that did occur?---Yes, on a number of occasions
11:24:55 9 that's correct.
11:24:55 10
11:24:55 11 And it simply wasn't disclosed to people, you're aware of
11:25:00 12 that?---Yes.
11:25:00 13
11:25:00 14 I take it do you now accept that that is very
11:25:09 15 troubling?---It's troubling, yes.
11:25:11 16
11:25:11 17 It is. Do you accept that it doesn't really matter whether
11:25:17 18 times are difficult, whether there's lots of crime going on
11:25:22 19 and those sorts of things, it doesn't really matter whether
11:25:25 20 you've got difficult times, the fact is if police are doing
11:25:29 21 that sort of thing and not disclosing it, that brings the
11:25:36 22 real risk of perversion of the course of justice, the
11:25:43 23 criminal justice system?---And create that risk, yes.
11:25:50 24
11:25:51 25 Did you know at the outset when the High Court handed down
11:25:53 26 its decision that that was the sort of conduct that was
11:25:56 27 going on?---No.
11:25:57 28
11:25:57 29 Do you say that you've learnt, like a lot of us have during
11:26:01 30 the course of this year, what was going on throughout the
11:26:05 31 course of this Royal Commission?---Yes.
11:26:06 32
11:26:07 33 So insofar as you may well have said in the past, "Look, as
11:26:11 34 far as I was concerned, people haven't done anything wrong,
11:26:17 35 they've just been trying to do their duties", do you think
11:26:19 36 that might not in fact be the case now?---I think in terms
11:26:22 37 of what is said in the public discourse about trying to
11:26:25 38 explain to the community what would have been on these
11:26:29 39 officer's minds at the time, it's not to excuse any
11:26:33 40 behaviour.
11:26:33 41
11:26:33 42 You're not seeking to excuse any behaviour of that sort
11:26:36 43 we've just been talking about, are you?---No.
11:26:39 44
11:26:40 45 I wonder, Commissioner, if that's an appropriate time.
11:26:42 46
11:26:43 47 COMMISSIONER: Yes, indeed. We'll have the midmorning

11:26:45 1 break now.
11:27:22 2
11:27:23 3 (Short adjournment.)
4
11:50:20 5 COMMISSIONER: Yes, Mr Winneke.
6
11:50:23 7 MR WINNEKE: Thanks Commissioner. Perhaps I should tender
11:50:25 8 that transcript of interview between Mr Ashton and
11:50:33 9 Mr Murray Gregor dated 16 February 2005, Commissioner.
11:50:40 10
11:50:42 11 #EXHIBIT RC857A - (Confidential) Record of interview
11:50:44 12 16/2/05.
11:50:49 13
11:50:50 14 #EXHIBIT RC857B - (Redacted version.)
15
11:50:53 16 Thanks Commissioner. Mr Ashton, we've been - the
11:50:56 17 Commission's been provided with some diaries which you kept
11:51:02 18 when you were at the OPI. I gather you've got the two
11:51:08 19 diaries that we've been provided with, they're hard copy
11:51:14 20 diaries; is that right?---Yes. No, I don't think I have
11:51:18 21 been. I'd have to check that.
22
11:51:20 23 Copies of them, electronic versions of them. One of them,
11:51:27 24 at least the first one starts on the 11th, the first entry
11:51:31 25 is on p.1 on the 11th of April 2005?---Yes.
26
11:51:37 27 Right. Do you know whether you kept a diary prior to 11
11:51:45 28 April 2005?---No, I don't know whether I did or I didn't.
11:51:54 29 I most likely would have because that was, when I commenced
11:51:58 30 at the OPI I would have started keeping a diary when I
11:52:02 31 commenced there.
32
11:52:03 33 Right. And so is it your belief that you would have kept a
11:52:06 34 diary, say, from December of 2004 and - - - ?---Yes.
35
11:52:13 36 - - - continued through and started a new diary p.1 on 11
11:52:18 37 April 2005?---I think so.
38
11:52:20 39 And was it your practice to keep a diary?---Normal
11:52:25 40 practice, yes.
41
11:52:26 42 And I take it that's a practice which you had commenced as
11:52:28 43 a member of the Police Force in the Australian Federal
11:52:32 44 Police?---Yes.
45
11:52:34 46 And was it back in those days, were you given instructions
11:52:40 47 about the purposes of keeping a diary and what needed to go

11:52:43 1 into the diary?---Yes.
2
11:52:45 3 What was the point of keeping a diary as a police officer
11:52:48 4 or an investigator?---That you'd have a record of events
11:52:51 5 that if required later and for evidentiary purposes you'd
11:52:56 6 have a record of decisions and meetings you'd had.
7
11:53:00 8 Right. And here we are, you're giving evidence and you've
11:53:06 9 got a diary at least for some parts of the time?---Yes.
10
11:53:08 11 But not all parts of the time. You say you would have had
11:53:11 12 a diary prior to 11 April but insofar as our endeavours, we
11:53:17 13 haven't been able to find it, at least IBAC hasn't been
11:53:21 14 able to produce it to us. You say, "Look, all the diaries
11:53:27 15 that I had I left at the OPI when I left in December
11:53:34 16 2009"?---Yes. Correct.
17
11:53:35 18 So if we've got two of your diaries, one assumes that they
11:53:39 19 were diaries that you'd left when you left or finished your
11:53:44 20 contract?---Yes.
21
11:53:51 22 Your investigations or your involvement in the
11:53:52 23 investigation of the leak of IR 44 continued throughout
11:54:06 24 2005; is that correct?---Yes.
25
11:54:09 26 And we've got evidence of a special investigators meeting.
11:54:15 27 Were they held weekly, investigators' meetings?---It would
11:54:18 28 depend. Certainly they were held fairly regularly, yes.
29
11:54:22 30 Right. And there's a notation in a special investigators'
11:54:29 31 meeting on 28 February 2005 in relation to file 5755, which
11:54:34 32 is described as Hodson's file. Was that the number of the
11:54:42 33 file; is that right?---Yes, probably, yes.
34
11:54:44 35 There's a note to the effect that GA and PC saw a
11:54:48 36 pathologist, "And now moving on to organise a time to see
11:54:51 37 the crime scene officer", and that is in last week's
11:54:55 38 discussions. "GA's meeting with the CCP and AC Overland on
11:55:01 39 Wednesday pm this week re QAR concept in relation to IR
11:55:07 40 44". Does that ring a bell?---No, I'm just trying to
11:55:12 41 remember what QAR would mean.
42
11:55:15 43 "QAR concept in relation to IR 44", that doesn't ring a
11:55:20 44 bell?---No. It might if I could remember what QAR stood
11:55:24 45 for but it's the first time I've read that.
46
11:55:27 47 Then it says, "Interview with Murray Gregor now in

11:55:32 1 attendance, summons. ESD to obtain relevant
11:55:34 2 information"?---Yes.
3
11:55:35 4 It seems that the investigation that you're carrying out is
11:55:40 5 - well, a relatively broad investigation because you're
11:55:43 6 speaking to crime scene officers and pathologists and so
11:55:48 7 forth?---In relation to the Hodson murder?
8
11:55:50 9 Hodson, yes?---Yeah.
10
11:55:53 11 I mean that doesn't seem specifically to relate to the leak
11:55:58 12 of the IR, it seems to be a more broad ranging
11:56:02 13 investigation, doesn't it?---Our investigation was really
11:56:04 14 in relation to IR 44 but we were also, as I mentioned
11:56:09 15 before, seeing what was happening on the Homicide
11:56:13 16 investigation.
17
11:56:13 18 Right. Then, "This week", so the week no doubt of 28
11:56:19 19 February, "GA at meeting last week with AC Crime, Simon
11:56:24 20 Overland and CCP re accessing of case files of Hodson.
11:56:28 21 They agreed to change QAR. Own motion investigation
11:56:33 22 utilised using QAR model". Does that ring a bell?---No,
11:56:40 23 not from - I don't have a recollection of it, no. But I'm
11:56:44 24 not - but if it's in my diary it's - - -
25
11:56:46 26 It's not your diary, it's in a note of a special
11:56:48 27 investigators' meeting?---Okay. Well that would have
11:56:52 28 occurred.
29
11:56:53 30 "Simon Overland to provide information. GA to provide
11:56:56 31 report re oversight of investigation leaked IR. GA to also
11:57:02 32 intend to request tapes and debriefs from ESD to be
11:57:06 33 completed this week". That suggests that you were going to
11:57:11 34 complete a report re oversight of the investigation of the
11:57:16 35 leaked IR. Do you believe you ever did or not?---I may
11:57:19 36 well have. I don't remember specifically typing anything
11:57:22 37 out but I may well have and that would be with the OPI or
11:57:26 38 now IBAC.
39
11:57:27 40 If it's there, it's there. If it's not there, the
11:57:31 41 likelihood is you didn't do one?---I don't specifically
11:57:37 42 remember doing one.
43
11:57:38 44 You probably would though, wouldn't you, if you had have
11:57:41 45 done one?---Yes.
46
11:57:43 47 What you also did, I suggest, is turn your mind to getting

11:57:47 1 phone records for Nicola Gobbo. Do you recall doing
11:57:50 2 that?---Well the investigators probably did, yep.
3
11:57:56 4 Right?---Yep.
5
11:57:56 6 If we have a look at this document IBAC.0010.0001.0916.
11:58:07 7 It's an email from you dated 8 March 2005. You'll see
11:58:27 8 that's an email you've sent to Peter Teather at Police
11:58:33 9 Victoria?---Yes.
10
11:58:34 11 Subject is, "Request for documents regarding Terrence
11:58:36 12 Hodson. As part of our continuing investigations into the
11:58:39 13 leak of IR 44 from the Crime Department we're having a look
11:58:42 14 at some issues around former member Christopher Dale's
11:58:45 15 relationships". I assume that's probably a mistaken
11:58:49 16 reference to Paul Dale, would that be right?---Correct.
17
11:58:53 18 "A copy of the tapes of a debrief conducted by Detective
11:59:00 19 Senior Sergeant Gregor and Terrence Hodson on 6 November
11:59:02 20 marked Operation Nutation, IR 15. Copies of all call
11:59:08 21 charge records requested by Gregor for Nutation in respect
11:59:15 22 of the service connected in the names of Nicola Gobbo.
11:59:16 23 Police member name Argall and Dale and these should all be
11:59:21 24 on the Op Nutation file". Was that part of your
11:59:24 25 investigation into these matters, was it?---Yes.
26
11:59:30 27 Do you recall obtaining Ms Gobbo's telephone records?---I
11:59:36 28 believe we would have obtained those records that we
11:59:39 29 requested.
30
11:59:40 31 Right?---Yes.
32
11:59:42 33 Would you have had regular meetings with members of
11:59:47 34 Victoria Police about your investigation or your oversight
11:59:52 35 investigation?---There would have been meetings held at
11:59:56 36 different times I think, yes.
37
11:59:59 38 Were they regular meetings or as needs meetings?---I think
12:00:04 39 as needs probably would more accurately describe them.
40
12:00:11 41 If we have a look at your diary of 26 April 2005,
12:00:18 42 IBAC.0015.0001.0003. We see that on 26 April 2004 you - 5
12:00:32 43 I'm sorry, there was an Interpose lunch with Simon
12:00:37 44 Overland. Do you see that?---Yes.
45
12:00:39 46 Was that one of the regular meetings that you would have
12:00:42 47 with Mr Overland?---Yeah, that would have been in relation

12:00:47 1 to Interpose.
2
12:00:48 3 Right?---Yes.
4
12:00:48 5 And if you did have a meeting with Mr Overland would you
12:00:54 6 invariably set out all of the matters you discussed or
12:00:57 7 would you not do so?---No, it was probably around a
12:01:01 8 specific issue I would have thought, which may well have
12:01:05 9 been Interpose in that case.
10
12:01:07 11 That might not relate to this particular matter?---No,
12:01:12 12 probably not of, yeah.
13
12:01:15 14 We understand that Mr Fitzgerald was engaged, Tony
12:01:24 15 Fitzgerald was engaged relatively early on, I think it
12:01:29 16 might have even been back in 2004, to conduct an
12:01:32 17 investigation in IR 44's loss; is that right?---Yes.
18
12:01:36 19 And he interviewed - in fact I think before he interviewed
12:01:43 20 relevant people Mr Carroll and I think Mr Kedge conducted
12:01:49 21 some interviews with Dale and Miechel around the middle of
12:01:54 22 2004; is that right?---Yes, that was sort of before I
12:01:57 23 arrived at the OPI.
24
12:01:59 25 Yeah?---Yeah.
26
12:02:02 27 But when Mr Fitzgerald was engaged and when the OPI
12:02:09 28 commenced Mr Fitzgerald conducted some investigations of
12:02:14 29 Dale and Miechel in November of 2004, you're aware of
12:02:19 30 that?---Yes.
31
12:02:19 32 You might not have been present at that time but you
12:02:22 33 certainly would have looked at those interviews I take
12:02:25 34 it?---Back at that time when I started I would have, yes.
35
12:02:29 36 Right. Would you have been aware from those interviews
12:02:37 37 that at least Mr Miechel had suggested that Ms Gobbo had
12:02:42 38 identified Terry Hodson as an informer well prior to any
12:02:47 39 leak of IR 44?---Miechel had - sorry, can you repeat that?
40
12:02:54 41 Yes. Miechel was interviewed over a couple of days by Tony
12:02:58 42 Fitzgerald and during the course of that interview he
12:03:01 43 identified or he said that at one stage during the period
12:03:06 44 that he was a member of Victoria Police, I think it was in
12:03:09 45 about 2002, he had prepared briefs in relation to a couple
12:03:14 46 of criminals, two of whom, or alleged criminals at that
12:03:18 47 stage, two of whom Ms Gobbo had acted for and she at that

12:03:22 1 stage made it plain to Miechel that she had identified who
12:03:25 2 the informer was, that is that it was Terry Hodson. Are
12:03:30 3 you aware of that?---No, I believe that Hodson was an
12:03:32 4 informer.
5
12:03:33 6 Yes?---For Victoria Police.
7
12:03:36 8 Yes?---Which gave rise to IR 44 being created in the first
12:03:42 9 place, yes.
10
12:03:42 11 One of the issues was how IR 44 was leaked and did that
12:03:49 12 have anything to do with the death of the Hodsons. That
12:03:52 13 was one of the issues that was being looked at, both by
12:03:56 14 your organisation and by Victoria Police?---Yes.
15
12:03:59 16 What I'm suggesting to you is that you would have been
12:04:01 17 aware if you'd have read that interview that Mr Miechel was
12:04:05 18 saying, "Well look, Gobbo knew that Hodson was an informer
12:04:08 19 prior to any loss of IR 44 because she'd acted for two
12:04:14 20 people, one Waheed, another person called Pidoto"?---Well
21 she may have
22
12:04:21 23 You would have been aware of that at the time, wouldn't
12:04:24 24 you?---May well have , yea.
25
12:04:27 26 Is that something that you would have discussed with
12:04:28 27 Mr Fitzgerald?---I don't recall specifically discussing
12:04:33 28 that with Mr Fitzgerald.
29
12:04:35 30 I'm sorry?---No, I don't recall discussing it specifically
12:04:39 31 with Mr Fitzgerald.
32
12:04:40 33 There was certainly a suggestion in any event, a concern
12:04:44 34 that Ms Gobbo was involved in the leaking of IR 44 and that
12:04:47 35 was something that you were pursuing?---Yes.
36
12:04:50 37 And is it true to say that at the commencement of 2006 your
12:04:55 38 investigations started to focus more closely on the role of
12:05:00 39 Ms Gobbo?---Yes.
40
12:05:02 41 Would that be fair to say?---Yes, what she might know about
12:05:05 42 the passage through which IR 44 went, yes.
43
12:05:09 44 According to documents received by the Commission at some
12:05:12 45 stage prior to 3 January you prepared a briefing paper to a
12:05:16 46 person by the name of Prousialkas to have Mr Prousialkas
12:05:23 47 prepare an OPI hearing brief in relation to examining

12:05:25 1 Gobbo, do you recall that?---Yes. What was the date of
12:05:28 2 that, sorry?
3
12:05:29 4 I think if we have a look at this document, Commissioner.
12:05:32 5 If we can put up IBAC.0008.0001.0132, p.1. You'll see that
12:05:44 6 on 3 January 2006, "G Ashton handed file 5755", that's the
12:05:52 7 leaked file, "to Prousalukas with briefing paper enclosed",
12:05:59 8 which was dated December 2005, plus a file?---Yes.
9
12:06:02 10 You asked that person to prepare an OPI hearing brief with
12:06:05 11 a view to examining barrister Nicola Gobbo on her knowledge
12:06:10 12 of the Hodson murders and how IR 44 came into possession of
12:06:14 13 members of the criminal fraternity?---Yes.
14
12:06:18 15 And you requested weekly updates re progress of the
12:06:22 16 investigation?---Yes.
17
12:06:23 18 This is a running sheet we see here of the leaked file.
12:06:27 19 You would have seen that document I assume?---Yeah, one of
12:06:29 20 the running sheets, yes.
21
12:06:30 22 And so the expectation was certainly in 2006 that Ms Gobbo
12:06:41 23 would be brought before the OPI for an examination?---Yes.
24
12:06:44 25 That was, I take it, for the very purpose of conducting
12:06:47 26 your oversight in Victoria Police, you would say, into how
12:06:52 27 this document came to be leaked; is that right?---Correct.
28
12:06:57 29 Although it's also suggested that you were examining
12:07:00 30 Ms Gobbo on her knowledge of the Hodson murders, do you see
12:07:07 31 that?---Yes, as well as how IR 44 - yes.
32
12:07:11 33 Was that co-investigation role or was that an oversight
12:07:15 34 role?---Well, that was part our role in IR 44. Having some
12:07:20 35 knowledge in relation to her knowledge about the Hodson
12:07:24 36 murders may have assisted that.
37
12:07:28 38 Then if we have a look at this document, IBAC.0020 - - -
39
12:07:34 40 COMMISSIONER: Did you want to tender that?
41
12:07:36 42 MR WINNEKE: Yes, I tender that running sheet if I may.
12:07:39 43
12:07:40 44 #EXHIBIT RC858A - (Confidential) Running sheet commencing
12:07:41 45 3/1/06.
12:07:45 46
12:07:45 47 #EXHIBIT RC858B - (Redacted version.)

12:07:47 1
12:07:47 2 In fact whilst we've got it, perhaps if we can just scroll
12:07:51 3 down briefly. You'll see there that this file is -
12:08:03 4 basically sets out the investigator's actions in that
12:08:07 5 particular investigation; is that right?---Yes, Steve
12:08:12 6 Prousialkas, yes.
7
12:08:13 8 You'll see that, for example, on 9 January he met with you
12:08:18 9 and detailed his review of the file and planned
12:08:22 10 action?---Yes.
11
12:08:23 12 See that? There was a request to construct a new photo
12:08:29 13 board. No doubt that's something that you would have
12:08:31 14 discussed; is that right?---Yes, in all likelihood, yes,
12:08:34 15 yes.
12:08:34 16
12:08:34 17 If we go through, we see that there's a debrief on 9
12:08:42 18 January. You can see all of the things that's been done by
12:08:45 19 that person, do you follow that?---Yes.
20
12:08:48 21 All right. Then on 1 February 2006, and if we can put up
12:09:00 22 this document, .0020 - it's an email from Prousialkas to
12:09:09 23 Greg Carroll. Greg Carroll was a legal officer at the OPI;
12:09:16 24 is that right?---Correct.
25
12:09:17 26 And he sends a note to Greg saying, "Can I come and see you
12:09:23 27 when you're free to discuss Graham Ashton's proposed Gobbo
12:09:27 28 hearing. Putting together a draft Examiner's hearing brief
12:09:36 29 and I just wanted to make sure there was nothing anywhere
12:09:40 30 else in other documents or in your head that may be
12:09:41 31 relevant to the brief". At that stage you were determined
12:09:42 32 to have Ms Gobbo called before the OPI and conduct an
12:09:45 33 investigation - to examine her on oath; is that
12:09:48 34 right?---Yes, as one of the witnesses, yes.
35
12:09:51 36 Was it your intention to engage Mr Fitzgerald to, as he'd
12:09:59 37 done previously, on this occasion to be the
12:10:02 38 Examiner?---Well, that wasn't my call but that would have
12:10:04 39 been the intention, yes.
40
12:10:06 41 Well it mightn't have been your call, ultimately it might
12:10:11 42 have been the call of the Director, Mr Brouwer. But to all
12:10:16 43 intents and purposes you were the person who was in effect
12:10:18 44 running the investigation, would that be fair to
12:10:21 45 say?---Yeah, I wasn't sort of it in a hands-on but I was
12:10:27 46 oversighting that and in charge of that, yes.
47

12:10:30 1 Whether or not you were hands-on, it's pretty clear that
12:10:32 2 you had a fairly detailed knowledge of what was going on in
12:10:37 3 the investigation and you had your particular views about
12:10:39 4 how the investigation should be conducted?---Yes.
5
12:10:45 6 So you asked him to prepare an Examiner's brief?---Correct.
7
12:10:49 8 An Examiner's hearing brief. Indeed that appears to have
12:10:53 9 been done because if we have a look at IBAC.0010.0001.2496.
12:11:02 10 That appears to be the Examiner's briefing paper and it
12:11:07 11 sets out a synopsis of allegations, do you see that? If we
12:11:12 12 scroll through it, it basically sets out the background of
12:11:19 13 the investigation, talks about Dale being a suspect in the
12:11:21 14 removal of the blue file and its contents from the MDID
12:11:24 15 office, do you see that?---Yes.
16
12:11:27 17 At the bottom of the page. Now, if we can go through to
12:11:33 18 p.13 of that document. It basically sets out the inquiries
12:11:41 19 which had taken place from January to August of 2006 and it
12:11:44 20 says that at your direction, Assistant Director Graham
12:11:51 21 Ashton, "A number of further inquiries were conducted in
12:11:53 22 relation to the unauthorised disclosure of information
12:11:57 23 centring on Nicola Gobbo and any possible involvement she
12:12:00 24 may have had with that unauthorised disclosure. The
12:12:04 25 results of those inquiries are detailed hereunder in an
12:12:08 26 attempt to try and establish a possible link of a
12:12:10 27 non-professional nature between Gobbo and Dale, including
12:12:14 28 an intimate relationship, a financial check of Dale was
12:12:17 29 done". And on a professional level Gobbo of course knew
12:12:21 30 Dale by virtue of her role as a barrister for alleged major
12:12:25 31 drug criminals and he being an MDID detective, do you see
12:12:33 32 that?---Yes.
33
12:12:34 34 Do we take it that certainly by this stage you are quite
12:12:37 35 aware that Gobbo has acted for major drug criminals in her
12:12:43 36 role as a criminal barrister?---Yes.
37
12:12:47 38 And there is at least a concern on your part that she has
12:12:51 39 had some involvement in the leaking of this document,
12:12:56 40 correct?---Yes.
41
12:12:58 42 And there was also a suggestion that there might have been
12:13:04 43 a go-between, that is between Gobbo and Dale, and that's
12:13:09 44 the person by the name of Argall. Do you see that at the
12:13:19 45 bottom of the page?---Yes.
46
12:13:23 47 Right. So all of these things you were focusing on and

12:13:28 1 getting your investigators to focus on. Can I suggest to
12:13:32 2 you that this was building up your knowledge of Nicola
12:13:35 3 Gobbo?---Yes.
4
12:13:36 5 Right. Her role as a barrister, her role as a person who
12:13:42 6 represented major drug criminals and at this stage
12:13:48 7 obviously in August of 2006 you would say that you are not
12:13:55 8 aware that she is in fact a registered police
12:13:58 9 informer?---Yes.
10
12:14:00 11 Albeit we know that she in fact was by this stage a
12:14:04 12 registered police informer?---Now, yes.
13
12:14:06 14 Now we know. And obviously many members of Victoria Police
12:14:11 15 knew at that stage but what you're saying is they hadn't
12:14:15 16 let you into the secret just yet?---Correct.
12:14:19 17
12:14:21 18 COMMISSIONER: Did you want to tender the email?
19
12:14:24 20 MR WINNEKE: I'll tender the email and I'll tender that
12:14:26 21 document there also, the briefing.
12:14:29 22
12:14:30 23 #EXHIBIT RC859A - (Confidential) Email 1/2/06 Prousialkas
12:14:32 24 to Greg Carroll.
12:14:44 25
12:14:44 26 #EXHIBIT RC859B - (Redacted version.)
12:14:46 27
12:14:46 28 #EXHIBIT RC860A - (Confidential) Examiner's briefing paper.
12:14:53 29
12:14:53 30 #EXHIBIT RC860B - (Redacted version.)
12:14:55 31
12:14:55 32 Thanks Commissioner. If we can have a look at your diary
12:14:59 33 dated 29 April 2006. What that shows, I suggest, is that
12:15:07 34 at that stage - I can give you the reference,
12:15:16 35 IBAC.0015.0001.0003 at 4. If we go to .0015.0 001.0003 at
12:16:12 36 p.43. There's an indication in your diary around 29 May I
12:16:18 37 think that you are considering at that stage having a
12:16:22 38 hearing, do you see that, "Gobbo hearing's at 11:30
12:16:29 39 hours"?---Yes.
40
12:16:30 41 You see, "Some CCR material is still outstanding. TIs now
12:16:35 42 on hold again. Hearing date for Dale/Gobbo Tuesday, 25
12:16:44 43 July". Do you see that?---Yes.
44
12:16:45 45 "Greg to ring Fitzgerald", do you see that?---Yes.
46
12:16:49 47 Can I ask you what that means, or can I suggest to you that

12:16:54 1 what that means is that it was at that stage the intention
12:16:56 2 to bring Ms Gobbo and Mr Dale before the OPI around 25 July
12:17:04 3 of that year, there was CCR material, call charge records,
12:17:10 4 still outstanding and there was TI material on hold. But
12:17:14 5 the desire was to get Greg Carroll to contact Tony
12:17:18 6 Fitzgerald to bring him down to conduct those OPI
12:17:21 7 examinations?---Yes.
8
12:17:24 9 Would that be fair to say?---Yes.
10
12:17:26 11 And it appears if we then go to the running sheet, an entry
12:17:40 12 on 29 May, if we have a look at that, we see that at
12:17:45 13 11.30 am Prousialkas met with yourself and Greg Carroll,
12:17:51 14 "Discussed a number of issues including where we are with
12:17:54 15 the CCRs", so that refers back to your note. "It's been
12:17:58 16 decided that we aim for 25 July as the hearing date for all
12:18:01 17 three targets", and I suggest to you that would be Dale,
12:18:06 18 Argall and Gobbo, do you accept that?---Yes.
19
12:18:11 20 And that outside counsel, Mr Fitzgerald, will be engaged to
12:18:16 21 conduct the hearings?---Yes.
22
12:18:19 23 "Prousialkas to finalise the CCR data collection analyst
12:18:22 24 before then. We may, according to Greg Carroll, even have
12:18:26 25 the legislation fully passed therefore to allow us to
12:18:29 26 review the VicPol, TI and CCR data regarding this matter to
12:18:34 27 ascertain if any of that material is relevant and whether
12:18:34 28 it can be used in hearings". Do you see that?---Yes.
29
12:18:37 30 Is that a reference to legislative changes which might
12:18:43 31 enable you to share documents with Victoria Police; is that
12:18:52 32 right?---No, I think that's trying to get to the bottom of
12:18:54 33 whether we can use material that VicPol obtained under TI.
34
12:18:59 35 And whether it could be used - you could get access to it
12:19:03 36 and use it?---In the hearings, yes.
37
12:19:05 38 In the hearings?---Yes.
39
12:19:06 40 Were the hearings designed to determine what had occurred,
12:19:12 41 in other words, whether these people had been involved in
12:19:18 42 some way with the deaths of the Hodsons or was it a hearing
12:19:23 43 in relation to IR 44?---IR 44.
44
12:19:26 45 Because we know that earlier on in the year Mr Brouwer had
12:19:31 46 already published a report, which Mr Fitzgerald had
12:19:34 47 conducted, which was his report into IR 44 and how it came

12:19:39 1 to be released and I think that was tabled in parliament at
12:19:43 2 some stage during the course of 2006, or 2005 - I withdraw
12:19:47 3 that. So is this ongoing investigation into IR 44 despite
12:19:53 4 the fact that a report had already been tabled or was it a
12:20:01 5 sort of co-investigation with the police into the murder of
12:20:02 6 the Hodsons?---No, it was still in relation to IR 44.
7
12:20:07 8 Right. As it turns out there was a hearing in relation to
12:20:16 9 Ms Gobbo, Dale and Argall but it didn't occur in 2006, on
12:20:22 10 25 July. Do you know why it didn't occur?---No, I don't
12:20:26 11 know why it didn't occur and I've thought about it and I
12:20:33 12 was keen to access documents from the OPI to try and inform
12:20:36 13 myself as to why it didn't, but I don't know why it didn't.
12:20:39 14 I can't remember why it didn't.
15
12:20:41 16 Right. And you can't recall that?---No.
17
12:20:44 18 All right. Can I ask you about an investigation which was
12:20:51 19 going on at around the same time called Operation Khadi.
12:21:01 20 Do you know about that operation?---Yes.
21
12:21:09 22 Before I move to that, you say you were wondering why the
12:21:15 23 investigation or the hearing didn't occur. Is that
12:21:17 24 something that you raised with your lawyers to find out
12:21:20 25 about that, to see if you could get documents about
12:21:22 26 that?---Yes.
27
12:21:23 28 And what did you - what was the result of that?---I wasn't
12:21:27 29 provided with materials to tell me as to why that might
12:21:32 30 have - - -
31
12:21:33 32 I see?---- - - been the case.
33
12:21:35 34 Did you instruct your lawyers to contact the Commission to
12:21:38 35 find out if there were such documents?---I wanted to get
12:21:43 36 hold of any documents that might have helped me in relation
12:21:46 37 to that when I heard about that there was a - I saw
12:21:49 38 material suggesting that there could have been hearings in
12:21:53 39 06, as to why they didn't go ahead.
40
12:21:56 41 Yes?---The materials you're showing me today are the first
12:22:00 42 time I've seen some of those.
43
12:22:02 44 Right, okay. What do you know about Operation
12:22:06 45 Khadi?---Operation Khadi was initially I think started out
12:22:10 46 as, it might have started out as an investigation at ESD
12:22:13 47 and one of our investigators was working on that matter and

12:22:18 1 that ended up becoming a joint investigation between OPI
12:22:23 2 and ESD that this particular investigator was working on.
3
12:22:29 4 Which investigator was that?---It was John Kapetanovski.
5
12:22:37 6 Is it the case that Operation Khadi, and I think you refer
12:22:40 7 to it in your statement, was an early - or another perhaps
12:22:49 8 joint operation with Victoria Police?---Yes.
9
12:22:58 10 Did you commence an investigation around Operation Khadi
12:23:03 11 off your own bat, that is the OPI, or was that as a result
12:23:07 12 of information which had been given to you by police or how
12:23:10 13 did it come about?---Sorry, I don't remember its genesis.
14
12:23:20 15 Is it your understanding that Victoria Police were
12:23:23 16 conducting an investigation into police members of the
12:23:27 17 Brighton police station around 2006?---Yes.
18
12:23:33 19 Early 2006?---My initial recollection was that it was
12:23:38 20 St Kilda police station, but on looking at documents later
12:23:40 21 on it was suggested that it was Brighton. It's most likely
12:23:44 22 Brighton.
23
12:23:45 24 One of those people was a person by the name of Richard
12:23:48 25 Shields, does that ring a bell?---Yes.
26
12:23:57 27 Richard Shields was a Sergeant at the Brighton police
12:24:02 28 station and an allegation had been made as against him that
12:24:05 29 he was in potentially an inappropriate relationship with
12:24:07 30 Nicola Gobbo, amongst other matters?---I think it was to do
12:24:11 31 with theft of moneys.
32
12:24:13 33 Well, if we go back to about August of 2004 Mr Azzam Ahmed,
12:24:22 34 who we mentioned before, was arrested by I think a person
12:24:24 35 by the name of, I think we're calling him Brown, and at
12:24:27 36 his bail application it was suggested that, by Ms Gobbo
12:24:31 37 that he had had - he had stolen money from Mr Ahmed at the
12:24:38 38 scene of the arrest or thereabouts, do you recall
12:24:41 39 that?---Yes, that's right, yes.
40
12:24:43 41 And you're also aware, I take it, that in Mr Ahmed's car
12:24:47 42 was an item of personal correspondence belonging to
12:24:53 43 Ms Gobbo, a water bill with her name on it, her water
12:24:57 44 bill?---I don't have a recollection of that but I remember
12:25:00 45 it was stolen moneys.
46
12:25:01 47 Are you also aware that at a bail application some

12:25:06 1 suggestion was made by other members of Victoria Police
12:25:10 2 that Nicola Gobbo had done Mr Brown a favour by not
12:25:15 3 mentioning the fact that money had been stolen from her
12:25:20 4 client?---Yes.
5
12:25:22 6 These were all allegations which were swirling around the
12:25:28 7 Brighton police station, Mr Brown, and then insofar as
12:25:32 8 Mr Shields was concerned, there were suggestions that he
12:25:36 9 had accepted tickets to the races from Nicola Gobbo, you
12:25:39 10 recall that?---Yes.
11
12:25:44 12 And that he had inappropriately used police resources to
12:25:47 13 get himself to the races and these were the sorts of
12:25:50 14 allegations which arose around Operation Khadi, do you
12:25:58 15 accept that?---Well I didn't remember it with such, with
12:26:03 16 that degree of specificity, but certainly the money I
12:26:06 17 recall, the theft of the money being an issue, yes.
18
12:26:11 19 I think you ultimately signed a joint agency agreement in
12:26:15 20 relation to this operation, didn't you?---Yes.
21
12:26:18 22 And no doubt when you signed it you would have had a look
12:26:21 23 at the document before you signed it?---Yes.
24
12:26:24 25 You would have spoken to the investigators about it?---Yes,
12:26:27 26 the investigator that was looking after it from OPI, yes .
27
12:26:32 28 And you would have satisfied yourself that it was an
12:26:34 29 appropriate subject for a joint operation with Victoria
12:26:36 30 Police?---Yes.
31
12:26:45 32 It seems that - and if we can have a look at ICR 3838
12:26:54 33 p.207.
34
12:26:55 35 COMMISSIONER: You're wanting to tender Mr Ashton's
12:27:01 36 diaries generally?
37
12:27:03 38 MR WINNEKE: Commissioner, I'm content to tender them
12:27:05 39 generally but I will refer to specific days of relevance as
12:27:09 40 we go through.
41
12:27:10 42 COMMISSIONER: Yes.
43
12:27:11 44 MR WINNEKE: That's probably the best course.
45
12:27:12 46 COMMISSIONER: That's what we've been doing in other
12:27:14 47 instances. We'll make his diaries 861A.

12:27:20 1
12:27:20 2 #EXHIBIT RC861A - (Confidential) Graham Ashton's diaries.
3
12:27:28 4 #EXHIBIT RC861B - (Redacted version.) Specific redacted
12:27:29 5 entries referred to by the Commission.
6
12:27:32 7 MR WINNEKE: I also tender the email from Mr Ashton to
12:27:37 8 Mr Teather dated 8 March which I don't think I did.
12:27:40 9
12:27:41 10 #EXHIBIT RC862A - (Confidential) Email from Mr Ashton to
12:27:36 11 Mr Teather dated 8/03/06.
12:27:46 12
12:27:46 13 #EXHIBIT RC862B - (Redacted version.)
12:27:49 14
12:27:49 15 COMMISSIONER: Yes, thank you.
16
12:27:53 17 MR WINNEKE: I'm not suggesting that you'd seen this at the
12:27:55 18 time, it seems probably apparent that you didn't, but there
12:28:01 19 were discussions between Ms Gobbo and her handler on 24
12:28:03 20 March 2006 concerning police member Shields. He works at
12:28:09 21 Brighton. She saw him two weeks ago. Some other member is
12:28:14 22 making complaints against him. It's all about promotion.
12:28:17 23 There's also an allegation that he interfered with a police
12:28:20 24 prosecution. Ms Gobbo had known him for ten years.
12:28:23 25 Exchanged emails. He's doing a law degree and Ms Gobbo
12:28:28 26 checks his assignments. She rang this morning and he's
12:28:32 27 been suspended with pay regarding disciplinary offences.
12:28:35 28 He told Ms Gobbo that she might get a call from ESD and she
12:28:39 29 believed that it all goes back to Shields having a problem
12:28:42 30 with a member Brown. You'll see the name there but we're
12:28:48 31 calling him Brown. And she doesn't like Mr Brown. He is
12:28:51 32 the member who put Ms Gobbo's home address in a hand-up
12:28:54 33 brief and he was the informant for the arrest of Ahmed who
12:29:00 34 was caught with 2500 ecstasy tablets in a vehicle
12:29:04 35 containing two people. Did not interview or take a
12:29:07 36 statement from the other party. And Mr Ahmed has alleged
12:29:10 37 some type of criminality by police on the night. She
12:29:13 38 indicates the theft of money but Ahmed has chosen never to
12:29:18 39 report it, et cetera. Do you see that?---Yes.
40
12:29:24 41 Does that more or less bring to mind the sorts of
12:29:29 42 allegations that were being made which were the subject of
12:29:32 43 a joint operation?---My memory of it was really around the
12:29:38 44 money. I don't have a recollection of there being these
12:29:41 45 other things involved in it, no.
46
12:30:18 47 What I want to ask you about is this: you say that to the

12:30:24 1 best of your recollection you didn't know that Ms Gobbo was
12:30:29 2 a human source at this time, as clearly she was; is that
12:30:35 3 right?---Yes.
4

12:30:39 5 The Commission is aware that at around this time Ms Gobbo
12:30:46 6 had been an informer for a number of months and as we move
12:30:51 7 forward to April it's now apparent that Ms Gobbo had
12:30:56 8 provided information against a particular person and he'd
12:31:01 9 been arrested in April and she'd turned up and advised him
12:31:06 10 and so forth, those matters which have become a focus of
12:31:10 11 this Royal Commission, right? At that stage Ms Gobbo, it
12:31:14 12 seems, had been providing significant information and
12:31:19 13 assistance to Victoria Police and it seems that a decision
12:31:27 14 was being made as to whether or not to retain Ms Gobbo or
12:31:33 15 deregister her and provide her with a reward. You mightn't
12:31:39 16 have been aware of that at the time, but you've
12:31:40 17 subsequently become aware of that I take it?---Yes.
18

12:31:43 19 Right. In any event, on 5 June 2006 it seems that there
12:31:54 20 was a joint operation, and if we have a look at the diary
12:32:00 21 of a police officer by the name of Rod Wilson - do you know
12:32:03 22 Mr Wilson?---Yes, I know Mr Wilson, yes.
23

12:32:06 24 Did you watch his evidence last week?---No.
25

12:32:08 26 Have you heard about it or been briefed about his
12:32:11 27 evidence?---No.
28

12:32:12 29 Not at all?---No, not in any sort of detail. I remember in
12:32:21 30 meetings with my own lawyers last week that his name came
12:32:26 31 up that he'd been giving evidence and I was aware he was
12:32:29 32 giving evidence.
33

12:32:30 34 Was there any discussion about the evidence that he'd
12:32:32 35 given, concerning you and your potential knowledge of
12:32:35 36 Ms Gobbo?---No.
37

12:32:36 38 No, all right. In any event, if we have a look at this
12:32:38 39 diary, RCMPPI.0118.0001.0001, p.50. Operation Khadi brief,
12:32:47 40 now this is 5 June to AC, that's Mr Overland, for sign off
12:32:53 41 and then to - I'm sorry, Assistant Commissioner Cornelius,
12:33:00 42 I apologise. Then for sign off to Inspector Attrill and
12:33:04 43 then below that, "Operation Khadi agency agreement signed
12:33:08 44 off between OPI and ESD". Now that reflects the next
12:33:13 45 document and that has been tendered already, Commissioner,
12:33:18 46 the next document which is this document,
12:33:26 47 VPL.0005.0147.0067. That's a joint agency agreement and do

12:33:33 1 you see that it sets out on the evening of 16 August 2005
12:33:37 2 Brighton police members, et cetera?---Yes.
3
12:33:40 4 And Brown and various other people arrest Azzam
12:33:45 5 Ahmed?---Yes.
6
12:33:46 7 Terrence Wood outside an address, executed a search
12:33:49 8 warrant. And then early 2004 after attending a bail
12:33:55 9 hearing Senior Constable Brown was approached by former
12:33:59 10 Victoria Police members David Waters and Stephen Campbell
12:34:03 11 who made statements to the effect of, "Mate I think she
12:34:08 12 (Nicola Gobbo) has done you a huge favour". Further,
12:34:14 13 "Mate, trust me, she has probably saved your job", and
12:34:18 14 Brown pointed out that this was in regard to Ms Gobbo
12:34:22 15 representing Ahmed, an associate of Tony Mokbel. Do you
12:34:25 16 see that?---Yes.
17
12:34:27 18 And then there's further background, on 17 June 2005 at
12:34:36 19 Khyats Hotel another person approached a Senior Constable
12:34:41 20 and said words similar to, "Tell Brown to stay sick and not
12:34:45 21 give evidence. It's Mokbel's money and he's very pissed
12:34:50 22 off about it", do you see that?---Yes.
23
12:34:52 24 So quite clearly these are significant allegations and as
12:34:58 25 we see there under the heading "Substantive offence", the
12:35:01 26 operation is an investigation into an attempt to pervert
12:35:04 27 the course of justice, do you see that?---Yes.
28
12:35:07 29 The primary suspects are Detective Sergeant David Waters
12:35:11 30 and former Detective Senior Constable Steven Campbell, and
12:35:16 31 then a person by the name of Stephen Boyle and the
12:35:21 32 associate suspects are Senior Sergeant Richard Shields and
12:35:25 33 the Operations Management Group will consist of obviously
12:35:31 34 Rod Wilson of ESD and John Kapetanovski of the OPI, do you
12:35:38 35 see that?---Yes.
36
12:35:44 37 If we go over to point 8, it sets out - perhaps if we go
12:35:55 38 down. It sets out the roles of the agencies there. If we
12:35:58 39 move down to point 8. The reporting, and there are details
12:36:05 40 of various allegations. If we keep going. "Operations
12:36:08 41 Management Group to keep senior management of participating
12:36:12 42 agencies informed of the progress", do you follow
12:36:14 43 that?---Yes.
44
12:36:15 45 And if we then go down to the sign off, we see that you've
12:36:21 46 signed it on 5 June 2006?---Yes.
47

12:36:25 1 Mr Cornelius, Assistant Commissioner of ESD, signs it on
12:36:29 2 the same date, do you see that?---Correct.
3
12:36:32 4 The reporting requirement was that you be kept up-to-date
12:36:37 5 as to the progress of the operation, correct?---Yes.
6
12:36:40 7 And you would expect that to occur, and indeed would you
12:36:45 8 agree that it did occur?---Yes.
9
12:36:54 10 What also appears to have been - I tender that document,
12:36:57 11 Commissioner.
12
12:36:57 13 COMMISSIONER: Yes. How would I describe that, please?
14
12:37:01 15 MR WINNEKE: That's the joint agency agreement for
12:37:03 16 Operation Khadi dated 5 June 2006.
12:37:07 17
12:37:09 18 #EXHIBIT RC863A - (Confidential) Joint agency agreement for
12:37:03 19 Operation Khadi dated 5/06/06.
12:37:12 20
12:37:13 21 #EXHIBIT RC863B - (Redacted version.)
12:37:15 22
12:37:18 23 Going on behind all this is the police attempt or desire to
12:37:30 24 put a telephone intercept on Ms Gobbo's phone. Now were
12:37:33 25 you aware that there were TIs being, or proposed TIs being
12:37:41 26 put on Ms Gobbo's phone, or would you have been aware at
12:37:45 27 that time?---No, I don't have a memory of that, no.
28
12:37:47 29 You may not have a memory of it now but it's something that
12:37:50 30 - - - ?---Could have been aware.
31
12:37:52 32 If these matters were being considered you would have
12:37:54 33 been?---Could have been, yes.
34
12:37:55 35 And if we have a look at Mr Biggin's diary,
12:38:04 36 VPL.0005.0154.0001, or at least a note of his - a summary
12:38:12 37 of his diary, we see that Inspector Wilson, another Wilson,
12:38:16 38 not Rod Wilson, with the SPU - Surveillance Unit, p.156.
12:38:28 39 The previous page I think. Inspector Wilson of the
12:38:33 40 Surveillance Unit contacted by Superintendent Masters
12:38:37 41 regarding - special projects, yes, thank you Mr Chettle -
12:38:45 42 regarding human source 3838, as she was then known, but
12:38:50 43 clearly Ms Gobbo, "Contact should be made with AC Crime",
12:38:55 44 clearly that's Mr Overland, or the Commander of
12:39:01 45 Intelligence and Covert Support and there would be a
12:39:02 46 briefing paper regarding an SSU issue, do you see
12:39:07 47 that?---Yes.

1
12:39:08 2 So that inquiry had been made to put a TI on her phone.
12:39:16 3 The idea was that her calls would be monitored before an
12:39:23 4 OPI hearing and the announcement of an OPI hearing to see
12:39:28 5 if there were any reactions. Do you accept that that was
12:39:32 6 part of the plan?---Sorry, just repeat that, please?
7
12:39:35 8 The idea was to put telephone intercepts on her phone?---As
12:39:41 9 part of Operation Khadi ?
12:39:42 10
12:39:43 11 Around Operation Khadi as part of the operation to see what
12:39:46 12 she might have said or done around the establishment of an
12:39:52 13 OPI hearing at which she was going to be called. Now that
12:39:55 14 was part of the operation I suggest to you. You say you
12:40:03 15 don't recall that; is that right?---How are you drawing -
12:40:07 16 I'm just trying to understand how you're drawing that from
12:40:10 17 that entry.
18
12:40:11 19 Perhaps we'll move on. If we go - - -
20
12:40:13 21 COMMISSIONER: Just for the record that's part of Exhibit
12:40:17 22 578.
23
12:40:20 24 MR WINNEKE: Thanks, Commissioner. What we understand is
12:40:22 25 that Mr Masters or Inspector Masters, in preparation for
12:40:32 26 this, made inquiries to see if Purana had already had
12:40:36 27 Ms Gobbo's phones off and the Royal Commission's aware
12:40:40 28 because of a diary entry of Mr Sandy White about that
12:40:45 29 approach, and that Mr Masters was told that he should
12:40:49 30 contact or contact should be made with Mr Overland or
12:40:52 31 possibly Moloney about that. So there were concerns about
12:40:59 32 the possibility that Purana already had Ms Gobbo's phone
12:41:03 33 off and contact should be made with those people to
12:41:07 34 determine whether in fact that was the case?---I see.
35
12:41:10 36 Right. It appears that there was a meeting on 6 June 2006
12:41:28 37 at which Mr Overland disclosed the fact that Ms Gobbo was a
12:41:32 38 human source, or apparently disclosed it to Mr Cornelius,
12:41:37 39 Mr Wilson and Mr Masters. You're not aware of that I take
12:41:42 40 it?---No.
41
12:41:46 42 In any event, it seems that on or about 6 June Mr White
12:41:55 43 records being contacted by Mr Wilson, wherein he indicates
12:42:00 44 that Mr Overland had been contacted by Biggin after the
12:42:05 45 inquiry to put Ms Gobbo's phone off. So if we have a look
12:42:09 46 at the source management log of 6 June 2006 we'll see this
12:42:21 47 entry.

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12:42:22
12:42:26
COMMISSIONER: We might give Mr Ashton a copy of Exhibit 81 which has all the pseudonyms on it.

12:42:28
12:42:35
12:42:39
MR WINNEKE: Yes, thanks, Commissioner. Really, Mr Ashton, this is by way of background, but it is leading up to something I want to ask you about?---I'm sure it is.

12:42:42
12:42:45
12:42:48
12:42:52
12:42:57
By 6 June things are happening. Mr White's advised by Superintendent Wilson that he's aware of the source identity, that is Ms Gobbo's identity. You know who Mr White is, Sandy White I take it?---Yes, yes. Yes, I'm aware of his identity.

12:42:59
12:43:01
He's the controller, Ms Gobbo's controller at that stage?---Yes.

12:43:01
12:43:05
12:43:09
12:43:15
12:43:18
12:43:22
12:43:28
12:43:31
12:43:36
12:43:40
He was informed by Mr Overland, after being referred to same by Superintendent Biggin, when the inquiry was made re putting TI on the source's phone. "ESD working with the OPI regarding the investigation of Richard Shields and Mr Brown", Officer Brown. "Brighton police had attended to subpoena - yes, comma, Brighton police. It had been intended, that is OPI had intended to subpoena Ms Gobbo to OPI hearings and compel her to answer questions, then to see what occurs on the TI. Advised by Overland, do you see that?---Yes.

12:43:41
12:43:45
12:43:49
12:43:52
So that sort of sets the groundwork, doesn't it? That makes it clear that what was proposed was Ms Gobbo would be pulled into the OPI, her phones would be listened to and that would be part of the investigation?---Yes.

12:43:55
Right, and the joint operation?---Yes.

12:44:00
12:44:04
12:44:08
12:44:10
12:44:16
And advised by Overland, that is to contact SDU regarding the same, and that's done. "Advised Wilson. Will consider appropriate course of action and meet with same. Informed by Wilson that Mr Cornelius and Masters are also aware of the source identity now", right?---Yes.

12:44:22
12:44:28
12:44:32
12:44:38
It seems by this stage, and we're talking around June 2006, you, the OPI, are interested in Ms Gobbo for a number of reasons. One obviously is the possible involvement in the leak of IR 44, correct?---Yes.

12:44:41
Possible involvement with Mr Dale or knowledge of the death

12:44:46 1 of the Hodsons?---Yes.
2
12:44:49 3 Possible involvement in corruption issues with respect to
12:44:54 4 Brighton police and her knowledge of those matters,
12:44:58 5 correct?---Yes.
6
12:44:59 7 Attempted bribery or pervert the course of justice,
12:45:04 8 correct?---Correct.
9
12:45:05 10 And so you wanted her to come before the OPI to ask her
12:45:10 11 questions, quite justifiably, around all of these matters,
12:45:17 12 correct?---In relation to Operation Khadi there was an
12:45:21 13 intent to obviously ask her questions about all of that,
12:45:25 14 yes.
15
12:45:26 16 Certainly about the matters with respect to Khadi. One of
12:45:30 17 the things that would be significant for the OPI in
12:45:35 18 conducting its investigation is for, firstly, her response
12:45:41 19 to questions put to her at the OPI, correct?---Yes.
20
12:45:46 21 And you wouldn't want her to be on notice of questions that
12:45:49 22 were going to be put to her because that might in effect
12:45:54 23 spoil the element of surprise and you mightn't get what you
12:45:57 24 want to get?---Or in relation to what specific questions,
12:46:02 25 yes.
26
12:46:05 27 As an investigator you appreciate the element of surprise
12:46:08 28 is important in these sorts of ventures, correct?---Yeah,
12:46:13 29 well in the context of how you've set that out, yes, I
12:46:19 30 agree.
31
12:46:19 32 The other thing of significance, can I suggest, is that
12:46:23 33 Ahmed quite apparently was a client of hers, both in
12:46:26 34 relation to the events or the arrest which had occurred in
12:46:31 35 August of 2004 at Brighton?---Yes.
36
12:46:35 37 Right, because she'd been present when his bail application
12:46:39 38 had occurred, right?---Yes.
39
12:46:41 40 You were also aware now that she had involvement with Ahmed
12:46:47 41 around the time of the Operation Gallop matter, that is the
12:46:51 42 arrest of the people who were involved in the Dublin Street
12:46:56 43 burglary?---Yes.
44
12:46:57 45 So she's got involvement there as well. She's wrapped up
12:47:00 46 in both matters with Ahmed being a client of hers with
12:47:04 47 respect to both Dublin Street and the arrest at Brighton or

12:47:08 1 in relation to the Brighton matters, correct?---Yes, I'm
12:47:11 2 not sure at the time I had that nexus put together because
12:47:15 3 I've never really regarded that Operation Khadi as
12:47:18 4 connected to any of the Hodson stuff before.
5
12:47:20 6 It may not have been connected but it may well have been
12:47:24 7 something that other people were aware of, perhaps not you,
12:47:30 8 is that what you say?---Yes, potentially, yes.
9
12:47:33 10 Look, did you discuss, have discussions with Mr Overland
12:47:36 11 about operations such as Khadi and operations such as Oboe
12:47:42 12 and these sorts of things?---No, certainly in relation to
12:47:46 13 Petra and I reckon Briars. I don't recall having
12:47:51 14 discussions with him about other operations.
15
12:47:54 16 Yeah, okay?---Apart from Operation Air.
17
12:47:58 18 Operation Air. What was that?---That was another operation
12:48:00 19 that the OPI were conducting at that time which Mr Overland
12:48:04 20 had knowledge of.
21
12:48:07 22 Okay. I don't want to ask you about any of your details of
12:48:25 23 Operation Air, it's certainly an operation - that was
12:48:28 24 another joint operation, was it?---No, that was an OPI
12:48:31 25 investigation, yes.
26
12:48:33 27 Did that have any involvement at all with either Ms Gobbo,
12:48:37 28 firstly?---No.
29
12:48:37 30 Or any of the people for whom she acted?---No.
31
12:48:42 32 All right, okay. If we then move on to Mr White's diaries,
12:48:53 33 and this might or might not assist you. If we can have a
12:48:57 34 look at Mr White's diary of - I believe it's 6 June.
12:49:17 35 You'll see here that there was a contact with
12:49:21 36 Superintendent Rod Wilson of ESD. ESD have a joint
12:49:25 37 operation agreement with OPI regarding the investigation.
12:49:30 38 Activities at Brighton police station?---Yes.
39
12:49:34 40 Intelligence - sorry, "intend to use powers to interview" -
12:49:46 41 "compulsive powers" I think it might be, "to interview 3838
12:49:55 42 re knowledge of Shields or Brown. We're considering TIs
12:50:00 43 thought we'd check with Biggin", do you see that?---Yes. I
12:50:03 44 think that says coercive powers, yes.
45
12:50:04 46 Coercive powers. If we move down. Then there's a
12:50:07 47 discussion about, "Spoke to Mr Overland. Met the same

12:50:13 1 today. Luke Cornelius and Phil Masters present. AC stated
12:50:19 2 Gobbo is a human source. Also stated DSU were working on
12:50:28 3 an exit strategy with respect to Ms Gobbo". If we move
12:50:32 4 down. At 8.15 there's a meeting with Mr O'Brien at Purana
12:50:48 5 and there's a discussion about \$700,000 believed to be in
12:50:55 6 possession of Ahmed at the - I think it says arrest, "Which
12:51:04 7 was never found". Are you aware that there was a
12:51:07 8 suggestion that there had been a significant amount of
12:51:12 9 money lost by Mr Ahmed as a result of the Dublin Street
12:51:16 10 burglary, was that something you were aware of at the
12:51:19 11 time?---Sorry, I was just having trouble reading that.
12:51:21 12 Could you put the question again to me?
13
12:51:24 14 There was discussion between Mr White, Ms Gobbo's
12:51:29 15 controller, and Purana about the possibility that there had
12:51:41 16 been \$700,000 believed to have been in possession of Ahmed
12:51:45 17 at the time of the arrest and it was never found?---Was
12:51:52 18 this the arrest that Shields was associated with you mean?
19
12:51:56 20 No, this is the other arm of - - - ?---Oh, Dublin Street.
21
12:52:01 22 Dublin Street?---Okay, right. Oh, I see. Sorry.
23
12:52:05 24 Investigators were keen to get to the bottom of that, do
12:52:07 25 you follow that?---Yes, yes.
26
12:52:11 27 If we then move on to 9 June. It appears that there is
12:52:16 28 concern about the possibility of an OPI hearing?---Yes.
29
12:52:20 30 You understand that there was - ultimately there was no OPI
12:52:25 31 hearing in relation to Operation Khadi, are you aware of
12:52:28 32 that?---Well I don't remember there being a hearing, so
12:52:31 33 yes, unless there was one that I've forgotten about, but I
12:52:36 34 don't remember there being a hearing in that sense.
35
12:52:37 36 The intention was to call her before the hearing and
12:52:40 37 ultimately that didn't occur. We're going to go through
12:52:44 38 why that is. If we go to 9 June, we have a look again at
12:52:47 39 Mr Biggin's summary and we see at 167, although it's
12:52:57 40 blanked out I can tell you that it was Senior Sergeant
12:52:58 41 White, "Re ESD/SSU issue. Possible compromise of Ms Gobbo
12:53:01 42 if OPI conduct a hearing with the same. He was spoken to
12:53:10 43 at the request of ESD to ring Superintendent Wilson
12:53:13 44 regarding the proposal and identification of the same and
12:53:18 45 risk issues were discussed". So what appears to have been
12:53:21 46 the case is that Mr White, having discerned that Ms Gobbo
12:53:28 47 was going to be the subject of an OPI hearing, that is your

12:53:31 1 organisation was going to call her, there's some concern
12:53:34 2 now raised?---Yes.
3
12:53:36 4 If we move on to 13 June at p.168, there's an Inspector
12:53:44 5 Wolf, a [REDACTED], and there are a number of other
12:53:47 6 people and I can tell you there that - you can see the
12:53:51 7 names there. You see O'Connor and then there's another
12:54:00 8 name and then two names who are SDU people, do you see
12:54:04 9 that? A person we call Mr White and then another person by
12:54:09 10 the name of Richards, regarding the ESD, TPA (SSU) issue.
12:54:22 11 Implications for Ms Gobbo. In short point there's concerns
12:54:26 12 about her going to the OPI?---Yes.
13
12:54:27 14 The concern is that if she goes to the OPI she might well
12:54:30 15 be exposed as a human source, the sorts of issues that you
12:54:34 16 know arise subsequently the following year, do you recall
12:54:36 17 that?---Yes.
18
12:54:38 19 Right. If we then go to 15 June 2006. There's a diary
12:54:53 20 entry of Mr White, who meets Attrill, the investigator, and
12:54:57 21 Rod Wilson from ESD. Again, I suggest to you that there's
12:55:01 22 concern about the meeting. There's concern that too many
12:55:09 23 people are being told about Ms Gobbo. There's opposition
12:55:15 24 to the idea that she be called and it's suggested, indeed,
12:55:22 25 that you be told and that's opposed, okay, you'll see that
12:55:25 26 the suggestion that Graham Ashton of the OPI be informed
12:55:29 27 that Ms Gobbo is a human source is opposed, do you see
12:55:33 28 that?---Yes.
29
12:55:35 30 At that stage the agreement by those people at the meeting
12:55:39 31 is that you not be told that Ms Gobbo is a human
12:55:42 32 source?---Yes.
33
12:55:43 34 I take it you'd be happy to accept that?---Yes.
35
12:55:52 36 It was advised that the risk if Ms Gobbo was put before the
12:55:58 37 Chief Examiner. It can't happen. It was agreed that
12:56:00 38 Ms Gobbo to be spoken about as a witness. It was indicated
12:56:05 39 that Ms Gobbo may be able to assist with respect to Adam
12:56:09 40 Ahmed and advised that Adam Ahmed had intelligence in
12:56:13 41 relation to the theft of \$700,000 to \$900,000 from
12:56:19 42 Operation Gallop and he was unwilling to talk. Those are
12:56:22 43 the matters with which the police are concerned about at
12:56:25 44 that stage, do you see that?---Yes.
45
12:56:26 46 The next thing I want to take you to is an information
12:56:29 47 report, VPL.0005.0147.0119. What we see here is on that 21

12:56:45 1 July 2006 Mr Wilson - if we just go up the page, this is an
12:56:51 2 information report which has been submitted by Inspector
12:56:53 3 Attrill. "Wilson and I met with John Kapetanovski", who is
12:56:59 4 your investigator for Khadi?---Yes.
5
12:57:02 6 Michael Davson who is another investigator at the OPI; is
12:57:06 7 that right?---Yes.
8
12:57:06 9 And Stephen Parker from the OPI, and they meet at your
12:57:10 10 offices in relation to Operation Khadi, do you see
12:57:14 11 that?---Yes.
12
12:57:14 13 "The joint agency corruption investigation. During the
12:57:17 14 meeting the intention of ESD is to meet with Nicola Gobbo
12:57:22 15 as an avenue of inquiry was mentioned and discussed at
12:57:25 16 length". So the police have determined, "We don't want to
12:57:30 17 put her before the OPI, we want to speak to her and find
12:57:33 18 out what she's got to say". "Circumstances surrounding
12:57:36 19 this avenue of inquiry at this early stage and the
12:57:39 20 investigations followed receipt of certain information
12:57:41 21 which can't be disclosed." Now what it says here is that
12:57:46 22 there was some frustration and disagreement expressed by
12:57:48 23 the OPI concerning the proposed meeting with Gobbo, "As the
12:57:53 24 OPI expressed their intention to serve a subpoena on the
12:57:56 25 witness and bring her before a coercive hearing. The OPI
12:57:59 26 believed any prior meeting may jeopardise the element of
12:58:03 27 surprise with questions that will be put to her by the OPI
12:58:06 28 at the hearing, and that is Ms Gobbo would have some
12:58:09 29 indication of what was likely to be asked at a future
12:58:13 30 hearing and the surprise element would then have been
12:58:17 31 sacrificed". Do you see that?---Yes.
32
12:58:19 33 Can I suggest that those are matters which would have been
12:58:21 34 conveyed to you as the manager in charge of the
12:58:24 35 operation?---I don't remember being - that sort of
12:58:26 36 information being relayed to me by Mr Kapetanovski, no.
37
12:58:31 38 You don't recall that?---No.
39
12:58:32 40 You may not. But would it be reasonable to say that if he
12:58:35 41 was doing his job properly, as the joint investigation plan
12:58:39 42 required him to, he would have been letting you know what
12:58:41 43 was going on with this significant investigation?---He may
12:58:44 44 have. I don't have a recollection of it.
45
12:58:46 46 You would expect him to, wouldn't you?---Well, this is a
12:58:52 47 reflection of a meeting that's taken place with

12:58:54 1 Kapetanovski and members of Victoria Police. He was
12:58:58 2 obviously working on the investigation at that time. So it
12:59:01 3 would have been up to his judgment I suppose to determine
12:59:05 4 whether it was something I needed to know or not.
5
12:59:07 6 "A prepared list of questions was to be put to Gobbo at the
12:59:11 7 meeting." So the ESD is going to have meeting with her, a
12:59:12 8 prepared list of questions would be put and tendered for
12:59:16 9 the following week and that was furnished to the OPI for
12:59:18 10 their information and input. "The questions centred around
12:59:19 11 the allegation of an attempt to pervert the course of
12:59:22 12 justice involving Brown, Senior Sergeant" - various other
12:59:27 13 people. Do you see that?---Yes.
14
12:59:31 15 Without needing to go through all of those names, and
12:59:33 16 Nicola Gobbo. So clearly she's involved in this
12:59:36 17 investigation?---Yes.
18
12:59:39 19 "The investigation would also closely examine alleged
12:59:44 20 improper relationships by police, alleged
12:59:48 21 corruption/management issues at Brighton police station.
12:59:50 22 OPI subsequently advised they did not want any questioning
12:59:54 23 regarding Waters or Campbell and their relationship with
12:59:57 24 Brown and Gobbo raised at the meeting", and that was agreed
12:59:59 25 to, do you see that?---Yes.
26
13:00:01 27 So the OPI had a remit and that was to investigate
13:00:05 28 corruption around Brighton police station, allegations of
13:00:12 29 serious conduct such as attempting to pervert the course of
13:00:16 30 justice?---Yes, theft of this money.
13:00:17 31
13:00:18 32 And that was important, that that investigation be carried
13:00:19 33 out in full, do you accept that proposition?---Yes.
34
13:00:25 35 So it seems to be that there was an arrangement whereby
13:00:29 36 certain questions wouldn't be put and those would be the
13:00:32 37 questions around Waters and Campbell, who were the prime
13:00:38 38 suspects in the Operation Khadi investigation,
13:00:42 39 right?---Yes.
40
13:00:48 41 Can I ask you this: are you aware that on 16 June 2006
13:00:59 42 Mr Wilson, Rod Wilson and Mr Kapetanovski had a discussion
13:01:05 43 about OPI powers and the possibility that a person called
13:01:10 44 before the OPI could claim not to answer questions on the
13:01:13 45 basis of legal professional privilege? Do you have any
13:01:22 46 recollection of that?---No.
47

13:01:24 1 Do you recall what the situation was, whether that was ever
13:01:28 2 discussed with you, the possibility that Ms Gobbo might be
13:01:31 3 permitted to refuse to answer questions on the basis of
13:01:34 4 LPP?---No, I don't remember that.
5
13:01:36 6 If we have a look at the diary of Mr Wilson,
13:01:44 7 RCMPI.0118.0001.0001 p.55.
8
13:01:48 9 COMMISSIONER: That's Rod Wilson I take it?
10
13:01:52 11 MR WINNEKE: Rod Wilson, Commissioner.
12
13:01:54 13 COMMISSIONER: Yes.
14
13:01:59 15 MR WINNEKE: You'll see the heading of "Legal privilege"
13:02:03 16 and there's a blank there but that's a reference to
13:02:06 17 Mr White, Sandy White. "Spoke to Sandy White re OPI powers
13:02:11 18 of professional legal privilege". Then the next thing is
13:02:15 19 that Mr Wilson speaks to John Kapetanovski regarding the
13:02:19 20 above. "None should be given but claim can be made and
13:02:23 21 advised Mr White", do you see that?---Yes.
22
13:02:29 23 You say you're not aware of that issue arising?---No.
24
13:02:35 25 Do you accept in any event that it would be an obvious
13:02:38 26 issue if you're calling in a barrister to ask her questions
13:02:41 27 about a relationship with people who might well be a
13:02:45 28 client, would that be something that you would
13:02:47 29 consider?---Yeah, the barrister would raise that in the
13:02:50 30 hearing and they'd have to be careful about how that was
13:02:53 31 questioned so as to not cause an LPP - - -
32
13:02:57 33 Was it your understanding that the claim can be made but
13:02:59 34 they were obliged to answer questions or not?---Well if a
13:03:04 35 claim was to be made then we'd have to pause the hearing
13:03:13 36 and get legal advice as to whether it could continue or not
13:03:16 37 I'd suggest.
38
13:03:17 39 I'm not testing you on your recollections of the
13:03:22 40 legislation that you were bound by. But insofar as calling
13:03:26 41 Ms Gobbo to various OPI hearings, did you have discussions
13:03:29 42 either with Mr Carroll or Mr Fitzgerald or Mr Brouwer about
13:03:33 43 this issue of LPP?---We wouldn't have been questioning her
13:03:36 44 about, you know, matters around LPP. We just couldn't see
13:03:44 45 where - - -
46
13:03:44 47 But isn't this what you're doing, you're seeking to call

13:03:49 1 her before the OPI and ask her questions about matters
13:03:52 2 which pertain to her relationship with various
13:03:55 3 people?---Yes, relationship, knowledge of criminals, et
13:03:58 4 cetera. That can be distinct from actually providing
13:04:02 5 people, people that are providing legal advice to.
6
13:04:04 7 Do you say that's not something that you ever considered or
13:04:06 8 spoke to anyone about?---No.
9
13:04:08 10 All right. It seems that there was a meeting and Gobbo met
13:04:14 11 with the two police investigators, Swindells and Attrill,
13:04:18 12 and there's a record kept of the meeting. Amongst other
13:04:22 13 things Ms Gobbo raised concerns about subpoenas being
13:04:27 14 issued, concerns about being called to give evidence at the
13:04:31 15 OPI. There was discussions about matters concerning Ahmed,
13:04:36 16 discussions with investigators about what approach might
13:04:39 17 work to get assistance from Ahmed and there's a reference
13:04:44 18 to Ms Gobbo throwing privilege out the door. You wouldn't
13:04:47 19 have been aware of that at that stage?---No.
20
13:04:50 21 No one would have told you about that?---No.
22
13:04:53 23 All right. If we then have a look at Mr Wilson's diary
13:05:05 24 again at p.42, VPL.0005.0213.0023. We see there there was
13:05:39 25 a discussion with - Mr Wilson had a discussion with
13:05:44 26 Mr Swindells and Attrill following the meeting with Gobbo.
13:05:46 27 "Gobbo distressed and issues raised. Follow up with the
13:05:49 28 Crime Department and Mr White", do you see that?---Yes.
29
13:06:01 30 What then occurs, can I suggest to you, is that Mr White
13:06:12 31 speaks to Mr Wilson and expresses - I'll do this in a
13:06:23 32 summary way if I can, Mr Ashton. There's concern expressed
13:06:26 33 that Attrill disclosed to Gobbo that he knew that she was
13:06:32 34 assisting. It was then suggested that Mr Overland,
13:06:37 35 Assistant Commissioner Overland, approach Graham Ashton of
13:06:41 36 the OPI and brief and request that no further action be
13:06:45 37 taken with respect to Gobbo, right? Then a meeting was
13:07:00 38 arranged, a further meeting was arranged and if we have a
13:07:05 39 look at Mr White's diaries of 24 July. Have a look at the
13:07:28 40 diary. "Suggested that AC Overland approach Graham Ashton
13:07:35 41 of the OPI. Brief request him NFA", to take no further
13:07:42 42 action with respect to Ms Gobbo. "Agreed need to meet with
13:07:54 43 Superintendent Biggin". Then what happens is he rings
13:08:00 44 Biggin the following day and they meet and there's a
13:08:14 45 meeting which takes place between Biggin, Wilson, Sandy
13:08:19 46 White and another handler by the name of Mr Smith. What
13:08:33 47 the Commission also knows is that by this stage Mr Wilson

13:08:37 1 has already briefed Luke Cornelius regarding the issue
13:08:45 2 regarding Nicola Gobbo. Mr Cornelius was your counterpart
13:08:50 3 to the Operation Khadi joint agency agreement,
13:08:54 4 right?---Yes.
5
13:08:58 6 Mr Wilson's evidence is that he would have spoken about the
13:09:01 7 events as discussed with Mr White. Mr Overland approaching
13:09:06 8 - that is Overland approaching you to brief you with
13:09:09 9 respect to taking no further action. The meeting then
13:09:13 10 occurs and if we have a look at the entry of Mr Wilson. If
13:09:35 11 we put this entry up, VPL.0100.0096.0324. It's a diary
13:09:43 12 entry of Mr White's. There's a meeting and following the
13:09:48 13 meeting this diary entry is made. It's the same document
13:10:11 14 that was up before, Commissioner. We just need to scroll
13:10:14 15 it. Here we are. "Meet with Superintendent Biggin, Rod
13:10:21 16 Wilson, Mr Smith regarding Ms Gobbo. Luke Cornelius
13:10:26 17 briefed. Agrees Assistant Commissioner Crime Overland to
13:10:31 18 speak to Graham Ashton, the OPI, regarding the issue.
13:10:35 19 Advised not to pursue. Biggin to speak to Simon Overland
13:10:44 20 regarding the same. To gauge if info re human source ID
13:11:12 21 can be limited to only Graham Ashton at the OPI. What will
13:11:15 22 staff think if investigators or Ms Gobbo involvement in the
13:11:19 23 investigation stopped?" Do you see that?---Yes.
24
13:11:21 25 So there's concern - Mr White's thinking about all these
13:11:26 26 things, but what they do want to do is make sure that only
13:11:29 27 you are told about Ms Gobbo. Do you see that?---Yes.
28
13:11:33 29 And obviously there's a concern about what other staff will
13:11:37 30 think if this investigation, which is going full steam
13:11:40 31 ahead, all of a sudden stops, or at least the desire to put
13:11:45 32 Ms Gobbo before the OPI stops. How is that covered off?
13:11:51 33 They're the things that are exercising Mr White and those
13:11:53 34 in the meeting, do you see that?---Yes.
35
13:11:55 36 "Agreed will not pursue Ahmed. Must investigate but that
13:12:02 37 will further highlight human source's assistance to
13:12:12 38 police", do you see that?---Yes.
39
13:12:15 40 They won't pursue that investigation because it will
13:12:18 41 highlight Ms Gobbo's assistance to the police, that's a
13:12:21 42 concern. Rod Wilson to supply recording of Attrill and
13:12:25 43 Swindells speaking to the human source and summary of notes
13:12:32 44 that he took handed over, I think it says. Right. What I
13:12:38 45 can suggest to you, Mr Ashton, is that at that time, on 25
13:12:43 46 July, the intention was to tell you who Ms Gobbo is, that
13:12:49 47 she's a human source, and only you, and to prevent her

13:12:55 1 being called before the OPI and as to how the other
13:13:00 2 investigators will be informed or how their suspicions will
13:13:07 3 be allayed it's not clear, but obviously that's something
13:13:11 4 they need to deal with. Do you see that?---Yes.
5
13:13:17 6 If we then go to the entry of Mr Wilson on the same day,
13:13:31 7 there's a meeting between Mr Wilson, Superintendent Biggin,
13:13:38 8 Mr White, Mr Smith regarding Ms Gobbo, "ESD happy to
13:13:43 9 withdraw her from interview. Need to brief Overland and
13:13:48 10 deal with Ashton OPI on the issue". So the same notes are
13:13:52 11 being taken, do you see that?---Yes.
12
13:13:54 13 Right. Then if we go to 26 July 2006. There's an entry of
13:14:03 14 Mr Biggin's diary which seems to be consistent with the
13:14:06 15 plan, RCMPPI.0075.0001.0001, p.319. It's not the right one.
13:14:44 16 What I'm suggesting to you, Mr Ashton, is this - keep
13:14:52 17 scrolling. Keep going up, scrolling up. Other way, other
13:14:57 18 way. Here we are. "DC Simon Overland, 3838, OPI hearings.
13:15:08 19 Brief same to speak to Graham Ashton re same. Not in
13:15:12 20 public interest to be placed before hearing", right? So
13:15:17 21 that's Mr Biggin's diary. Can I suggest to you that what
13:15:20 22 that indicates is that Mr Biggin has spoken to Mr Overland
13:15:23 23 regarding OPI hearings and he's briefed him in that way.
13:15:29 24 Now later in the day can I suggest to you that Mr Biggin
13:15:33 25 spoke to Mr White, told him that he'd spoken to Overland
13:15:38 26 and that Overland was meeting with Ashton about the issue
13:15:40 27 the next morning and that Overland would request that no
13:15:44 28 further actions in relation to Gobbo and that VicPol would
13:15:50 29 become the primary investigators and OPI were no longer
13:15:54 30 interested in the matter. I can suggest to you that that
13:15:57 31 is evidenced by Mr White's diary, or notes to that effect
13:16:02 32 are evidenced by Mr White's diary, do you accept
13:16:05 33 that?---Yes. Where's the bit where it says "tomorrow
13:16:08 34 morning"?
13:16:08 35
13:16:08 36 If we go to White's diary, if you'd like to see it,
13:16:11 37 VPL.0100.0096.0325. Do you see that, that's Mr White's
13:16:19 38 diary?---"Tomorrow am", was it? Yes, I see, thank you.
39
13:16:22 40 The intention is to speak tomorrow morning. And if we go
13:16:26 41 to the following day. We have your diary entry which
13:16:28 42 indicates that on 27 July 2006 you met with Simon Overland
13:16:33 43 and Luke Cornelius on that day, albeit regarding Operation
13:16:43 44 Air?---Yes, that's right.
45
13:16:46 46 What is clear though is that you meet with Overland and
13:16:49 47 Cornelius?---Yes.

1
13:16:57 2 I think I can say this, that Operation Air is a matter
13:17:00 3 which is associated or connected with improper associations
13:17:05 4 of Paul Dale, is it not?---No.
5
13:17:08 6 You say no?---No, Operation Air from my memory was the
13:17:13 7 investigation - - -
8
13:17:14 9 Another matter, is it?---Into activities down the Crime
13:17:18 10 Department.
11
13:17:18 12 All right, in any event. If you look at your diary entry
13:17:21 13 it's clear that you met with Overland that morning, do you
13:17:24 14 accept that?---Yes.
15
13:17:26 16 All right. Upon returning from the meeting it seems that
13:17:30 17 Mr Cornelius briefed Messrs Wilson, or Mr Wilson about the
13:17:34 18 Gobbo issue. Mr Cornelius told Mr Wilson that the OPI
13:17:38 19 wanted to question Gobbo about the Dale/Hodson matter,
13:17:43 20 right, and that was something that at that stage you were
13:17:46 21 very keen to do?---M'mm.
22
13:17:50 23 To question Gobbo about those matters?---Yes.
24
13:17:57 25 But what I do suggest to you is that at that stage you were
13:18:03 26 quite content though not to investigate her in relation to
13:18:06 27 the Khadi matter?---I didn't even remember having any
13:18:12 28 conversation with them about the Khadi matter at that time.
29
13:18:14 30 You may not. But what I'm suggesting to you is that you
13:18:17 31 were informed by Mr Overland that she was a human source
13:18:21 32 and that it wasn't in the public interest to call her
13:18:24 33 before the OPI and that's when you found out that Ms Gobbo
13:18:27 34 was a human source?---No, my best recollection of when she
13:18:31 35 was a human source is in my statement and that was in 2007.
36
13:18:36 37 Right?---I don't remember being informed by either
13:18:39 38 Mr Overland or Mr Cornelius in 2006 and I've - I saw
13:18:46 39 documentation, not you've just shown me, some of that
13:18:49 40 documentation previously around this 2006 meetings, but I
13:18:55 41 don't remember them seeing me in 2006 about her.
42
13:18:58 43 All right. If we have a look at Mr Biggin's diary at
13:19:08 44 p.319, RCMP.I.0075.0001.0001 at p.319. Bottom of the page,
13:19:44 45 13:30, DC Overland. There's a discussion with - a
13:19:55 46 reference to Detective Sergeant White re HS 3838 and OPI
13:20:02 47 hearing re Op Gallop issue. So that is discussed or that's

13:20:07 1 referred to, right?---Yes.
2
13:20:11 3 Commissioner, I note the time.
4
13:20:13 5 COMMISSIONER: Yes, indeed. All right then, we'll adjourn
13:20:20 6 until 2 o'clock thanks.
13:20:41 7
13:20:41 8 <(THE WITNESS WITHDREW)
13:20:43 9
13:20:46 10 LUNCHEON ADJOURNMENT
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13:56:19 1 UPON RESUMING AT 2.04 PM:
14:04:21 2
14:04:23 3 COMMISSIONER: Yes Mr Winneke.
14:04:24 4
5 <GRAHAM LEONARD ASHTON, recalled:
6
14:04:24 7 MR WINNEKE: Thanks Commissioner. Mr Ashton, I was asking
14:04:26 8 you earlier on, I just want to briefly digress. I was
14:04:33 9 asking you earlier on this morning about your knowledge of
14:04:36 10 the fact that Ms Gobbo had been an informer prior to
14:04:41 11 September of 2005 and as I suggested to you, it didn't come
14:04:49 12 across in the litigation that you were involved in and you
14:04:51 13 said well look, you weren't aware of that?---Yes.
14:04:54 14
14:04:54 15 Was that your recollection?---Yes.
14:04:55 16
14:04:55 17 When you were asked questions by Mr Kellam in 2014, in
14:05:02 18 November, you were asked these questions, this is at p.37,
14:05:13 19 "Did Mr Pope's various involvement with 3838 cause any
14:05:18 20 concern to the seniors in Victoria Police as to whether he
14:05:23 21 should be distancing himself from these issues at all?"
14:05:27 22 You said, "I became aware and I've certainly got diary
14:05:30 23 entries around that, became aware of a statement made by
14:05:33 24 3838 in relation do Mr Pope. We then took certain actions
14:05:40 25 off the back of that, but again with that position Jeff
14:05:43 26 Pope made a full disclosure what he regards as his
14:05:48 27 involvement with that witness and overall I think the
14:05:51 28 Senior Command was satisfied with that explanation"?---Yes.
14:05:53 29
14:05:53 30 That's the evidence that you gave. And you were asked
14:05:56 31 then, "Would it have been better for the appearances to
14:06:00 32 simply move aside and let other people deal with these
14:06:05 33 issues?" You said, "We also have to try and weigh that up.
14:06:09 34 It's not always easy to do that in a particular sense.
14:06:12 35 You've have to weigh up whether it was necessary or not".
14:06:16 36 Just stopping there. Mr Pope did continue to be involved
14:06:22 37 in matters dealing with Ms Gobbo subsequently, didn't he,
14:06:25 38 subsequent to those allegations?---Yes.
14:06:27 39
14:06:28 40 And I think you got a legal advice about whether he might
14:06:35 41 be, might have been guilty of misconduct of some
14:06:40 42 sort?---No, I don't remember doing that, I think there was
14:06:42 43 a professional standards investigation.
14:06:45 44
14:06:47 45 Yes?---Yes.
14:06:47 46
14:06:47 47 But nonetheless, it wasn't considered necessary as far as

14:06:52 1 you were concerned for Mr Pope to have no further
14:06:54 2 involvement with Ms Gobbo?---If the Deputy Commissioner and
14:07:00 3 Mr Pope were comfortable with it then I was comfortable
14:07:03 4 with it.
14:07:03 5
14:07:04 6 It was something that you weren't particularly concerned
14:07:07 7 about insofar as your position as Assistant Commissioner of
14:07:17 8 Crime at that stage, is that right?---Yes.
14:07:18 9
14:07:18 10 You say, "If the Deputy Commissioner is happy about it, I'm
14:07:21 11 happy about it", is that right?---Well yes, I reported that
14:07:23 12 allegation to him, in fact I brought Mr Pope to him to have
14:07:28 13 that matter reported to him and then it was his
14:07:30 14 responsibility to be following up as to the veracity of
14:07:35 15 that.
14:07:35 16
14:07:36 17 Do you think with the benefit of hindsight it might have
14:07:39 18 been better if Mr Pope had nothing to do with it
14:07:43 19 thereafter, Mr Ashton?---Well I certainly took the position
14:07:45 20 that I wouldn't be any further involved after that in terms
14:07:49 21 of once I became about the extent of her reporting, because
14:07:53 22 I'd previously been involved in the Petra steering
14:07:57 23 committee.
14:07:57 24
25 Yes?---I certainly took that decision in relation to
26 myself, but - - -
27
14:07:57 28 As far as you were concerned because of your previous
14:08:00 29 involvement at the OPI it wasn't appropriate for you to
14:08:02 30 have ongoing involvement, is that right?---Correct.
14:08:05 31
14:08:05 32 In any event, if we go on. So you said, "So he did have
14:08:12 33 hands-on involvement with that witness at all to the extent
14:08:16 34 that he". Mr Hevey said, "Well, he'd recommended that she
14:08:21 35 be activated back in 99, were you aware of that?" You say,
14:08:25 36 "No, I didn't know that". Mr Hevey said, "She was a source
14:08:30 37 of his for a year or two back in 99, 2000." You say,
14:08:33 38 "Yeah, subsequently I understood that to be the case". So
14:08:38 39 effectively what you're doing is in 2014, November, saying,
14:08:41 40 "Look, I was aware she was registered back in 99/2000", do
14:08:49 41 you follow?---Back in the 90s?
14:08:51 42
14:08:52 43 No, 99. Sorry, back in 99 and 2000. You see the point I
14:08:57 44 was making prior was that the litigation which was
14:08:59 45 conducted before Justice Ginnane seemed to be operating on
14:09:03 46 the basis that Ms Gobbo was first registered in 2005 and
14:09:07 47 hadn't been registered previously. Do you follow that?

14:09:10 1 That's what I was asking you before?---Right.
14:09:13 2
14:09:13 3 You recall I was asking you those questions?---Yes, yes,
14:09:16 4 yes.
14:09:16 5
14:09:16 6 I was asking you why it could be, if you're the plaintiff
14:09:19 7 in that proceeding, the court wasn't made aware of the full
14:09:22 8 extent of Ms Gobbo's involvement prior to 2005, do you
14:09:27 9 follow that?---Yes, I don't know.
14:09:29 10
14:09:29 11 This Royal Commission was set up on the back of the
14:09:32 12 findings of Justice Ginnane and the Court of Appeal,
14:09:36 13 ultimately the High Court, and we were engaged to examine
14:09:40 14 the conduct of Ms Gobbo from 2005 onwards, but the reality
14:09:44 15 is you were aware, as a party in that litigation, that
14:09:49 16 she'd been registered as far back at least as 99. How was
14:09:57 17 it that Justice Ginnane was led into that view, do you
14:10:02 18 know?---No, I don't know.
14:10:03 19
14:10:06 20 Having read the decision did you feel at all uncomfortable
14:10:11 21 that there appears to have been no reference at all to her
14:10:13 22 earlier registration, for example, when Justice Ginnane is
14:10:17 23 examining the issues as to her motivation for becoming an
14:10:22 24 informer?---No, I don't think I realised that when I read
14:10:26 25 that decision, no.
14:10:26 26
14:10:26 27 It didn't occur to you when you read the decision that in
14:10:26 28 fact she'd been registered to your knowledge back in 99,
14:10:28 29 2000?---No.
14:10:33 30
14:10:34 31 MR COLEMAN: That's not what the transcript says, there's
14:10:36 32 no reference to registration.
14:10:38 33
14:10:39 34 MR WINNEKE: All right. That she was a human source back
14:10:40 35 in 99, 2000?---No.
14:10:42 36
14:10:42 37 It didn't occur to you?---No, I didn't make that
14:10:45 38 connection, no.
14:10:45 39
14:10:46 40 Mr Ashton, do you seriously say to this hearing that it did
14:10:53 41 not occur to you that the relevance or the fact that
14:10:55 42 Ms Gobbo had been registered back in 2000 might have been
14:10:59 43 something which would have been significant in the
14:11:02 44 litigation that you were participating in?---I thought the
14:11:04 45 court was aware of all the information we had regarding her
14:11:09 46 assistance to Victoria Police at that time.
14:11:11 47

14:11:11 1 One assumes the decision having gone against you at first
14:11:16 2 instance, you would have read the decision to work out why
14:11:19 3 and said, "Look, I feel uncomfortable about this because
14:11:23 4 Justice Ginnane doesn't seem to have the full picture"?---I
14:11:26 5 didn't pick that up in that, no.
14:11:28 6
14:11:28 7 You didn't pick it up?---No.
14:11:29 8
14:11:29 9 Did you give it much attention?---I remember reading the
14:11:32 10 decision, yes.
14:11:33 11
14:11:34 12 And when did you read it? I assume fairly shortly after it
14:11:38 13 was handed down?---Yeah, I think it would have been some
14:11:40 14 time after that.
14:11:40 15
14:11:41 16 I assume you discussed it with your legal
14:11:43 17 representatives?---Yes, and they never raised anything of
14:11:45 18 that nature.
14:11:45 19
14:11:46 20 Did you tell them?---They had access to all the materials
14:11:49 21 Victoria Police had.
14:11:49 22
14:11:50 23 So you didn't tell them anything about the fact that she
14:11:53 24 had been registered previously?---No.
14:11:54 25
14:11:56 26 All right. Now, if I can come back to Operation Khadi very
14:12:14 27 briefly. What I suggest to you is that it appears that
14:12:21 28 Simon Overland went and spoke to you on 27 July 2006 and
14:12:26 29 said to you, "Look, Gobbo's a human source. We don't want
14:12:33 30 her to go before a coercive hearing before the OPI, we do
14:12:38 31 want her in due course because we've got interest with -
14:12:42 32 both of us have got interests in Dale, Gobbo, the death of
14:12:48 33 the Hodsons, IR 44". Now I suggest to you that that's what
14:12:52 34 occurred on 27 July 2006?---My recollection is the first I
14:12:59 35 knew was in 2007.
14:13:01 36
14:13:02 37 Yes?---And I don't remember him - he came and saw me that
14:13:06 38 day because I had reference to that diary entry that he
14:13:09 39 came and saw me in relation to Operation Air, but I don't
14:13:12 40 remember him talking - I don't have any recollection of him
14:13:14 41 raising with me about her being a human source at that
14:13:17 42 time.
14:13:17 43
14:13:17 44 Right. I'll tell you what Mr White says, he says in his
14:13:23 45 statement that he went and had a meeting, in fact it's in
14:13:28 46 his notes, on the 27th, he went and had a meeting with
14:13:34 47 Mr Biggin and Mr Overland. And if we go to

14:13:37 1 VPL.0100.0096.0327. If we have a look at that we can see
14:13:48 2 he has a meeting with the Crime Department with Biggin and
14:13:51 3 Overland regarding Gobbo and the OPI. "Overland has met
14:13:57 4 with Graham Ashton at the OPI. OPI happy to drop off
14:14:01 5 Brown/Shields issue. No requirement to examine 3838 re
14:14:09 6 same. A belief that NG", probably Nicola Gobbo, "And Paul
14:14:15 7 Dale had a relationship. Want to examine HS in future",
14:14:24 8 yeah, human source. "Believe HS and Paul Dale had
14:14:34 9 relationship. Want to examine HS in future re leaked IR
14:14:39 10 44". Clearly that's something you want to do and that was
14:14:43 11 what you were intending to do, correct?---Yes.
14:14:46 12
14:14:46 13 Indeed you were intending to do that in July of this year,
14:14:50 14 as we established previously, but that went off for a
14:14:53 15 period of time, do you recall that?---Yes.
14:14:54 16
14:14:57 17 And, "Belief that she may have been a conduit between
14:15:00 18 Mokbel, Williams and Dale regarding the IR, leading to the
14:15:04 19 killing of the Hodsons. Gobbo believed Dale involved in
14:15:11 20 burglary in Oakleigh. A belief that Mokbel and Williams
14:15:20 21 ordered the killing and Fitzgerald to conduct the inquiry.
14:15:23 22 And it was agreed that Gobbo can be told no OPI re Brown,
14:15:35 23 et cetera. At a time in the future she can be, that's HS
14:15:39 24 can be pre-warned of the OPI hearing regarding Dale,
14:15:46 25 et cetera. Gobbo may speak to handlers regarding the same.
14:15:51 26 It's a trust issue regarding informer, informing Ms Gobbo
14:15:58 27 of the hearing before it happens. Mr Smith to be told
14:16:04 28 only". So only Mr Smith is to be told about this. And
14:16:09 29 then further on, "Meet with Mr O'Brien regarding the same
14:16:13 30 and clear". And there's an update - yes, "Meet with Tony
14:16:23 31 Biggin regarding the same. Clear". Then at the bottom
14:16:26 32 there's a discussion with Mr Smith, "Update re the
14:16:31 33 information. Motivation is an issue. Is Ms Gobbo
14:16:36 34 informing because of guilt about being involved as a
14:16:38 35 conduit leading to the murder of the Hodsons? And has
14:16:42 36 Ms Gobbo ever mentioned Hodsons?" So that note occurs the
14:16:51 37 following day after it's been suggested that you would be
14:16:57 38 told to drop off and not to call her regarding your OPI
14:17:03 39 inquiry and it suggests, I suggest to you, that Mr Overland
14:17:10 40 has come down and seen you and effectively told you how to
14:17:12 41 do your job, do you accept that?---No, I don't have a
14:17:16 42 recollection about him even telling me about her at that
14:17:19 43 time.
14:17:19 44
14:17:20 45 I can further tell you this, that Mr White has made a
14:17:24 46 statement and he said at paragraph 151 that, "He had a
14:17:32 47 meeting and he was informed that Overland had spoken to

14:17:36 1 Ashton and told him that Gobbo was a human source.
14:17:38 2 Requested she not be called to a compulsory hearing because
14:17:43 3 this could compromise her". Then at paragraph 152 that,
14:17:46 4 "There may be a time in the future where she may called to
14:17:51 5 a compulsory hearing in relation to the suspected
14:17:55 6 involvement of Dale in the killing of the Hodsons and that
14:17:55 7 Dale had stolen IR 44 and leaked to Williams who was
14:17:58 8 suspected of ordering the killings". Now, can I suggest to
14:18:02 9 you that his recollection in his statement is borne out by
14:18:06 10 the notes. Do you accept that proposition?---Yes.
14:18:10 11
14:18:11 12 And likewise, Mr Cornelius went back and told Mr Wilson at
14:18:16 13 RCMP.I.0018.0001.0001 at p.67. If we can put this up.
14:18:42 14 Mr Wilson has a note that he's briefed by Mr Overland
14:18:47 15 regarding, after the ten o'clock meeting. At 11.30,
14:18:52 16 "Briefed by Mr Overland regarding" - I apologise.
14:18:56 17 "Assistant Commissioner Cornelius regarding the Gobbo
14:19:01 18 issue, OPI want to coercively question her re Dale, Hodson
14:19:06 19 and Attrill briefed". So Mr Attrill is the person who is
14:19:10 20 conducting the police investigation into the events around
14:19:14 21 the Brighton police station and the corruption, do you see
14:19:16 22 that?---Yes.
14:19:16 23
14:19:16 24 I suggest to you it looks for all the world like a
14:19:22 25 convenient arrangement between the OPI and Victoria Police
14:19:25 26 to hold off pulling Gobbo in because there are other
14:19:32 27 avenues that Victoria Police want to pursue, that is Gobbo,
14:19:38 28 Hodson and so forth, and OPI, and you?---Well certainly
14:19:44 29 there was some investigations, there would be discussions
14:19:48 30 about hearings and hearings that we wanted to be conducted
14:19:51 31 on different matters.
14:19:52 32
14:19:52 33 Yes?---And, you know, if you were able to try and do things
14:19:56 34 to fit in with, that doesn't run over the top of what
14:20:03 35 Victoria Police do and you would try and accommodate that,
14:20:05 36 but I don't remember on this occasion that being disclosed
14:20:08 37 to me.
14:20:08 38
14:20:09 39 You say you may not recall?---I don't recall, not may not.
14:20:13 40
14:20:14 41 You don't recall. Can I suggest to you that the evidence
14:20:18 42 reveals that you were keen to have Gobbo called. That was
14:20:22 43 the plan. And all of a sudden, because of the concern
14:20:27 44 that's raised by members of Victoria Police, in particular
14:20:30 45 the SDU, Mr Overland then comes and sees you and the
14:20:35 46 decision is made that the OPI will no longer call Ms Gobbo.
14:20:41 47 Now I suggest to you that's what it looks like?---Yes,

14:20:47 1 okay.
14:20:47 2
14:20:50 3 Can you offer any explanation for the change in direction
14:20:55 4 of the investigation?---No. It's a missing piece for me.
14:20:59 5 I haven't been able to, in materials I've seen, work out
14:21:03 6 why, why that particular hearing which was planned and I
14:21:07 7 think there was a briefing paper prepared for the examiner
14:21:11 8 on that, why that didn't go ahead.
14:21:13 9
14:21:14 10 The reason may well be exactly as the evidence suggests,
14:21:17 11 that you have a discussion with Mr Overland and the
14:21:19 12 decision is made to pull her?---That's not a decision I
14:21:22 13 would just be taking on my own if that did occur. There
14:21:27 14 would be conversations with the Director, the legal
14:21:29 15 department, Kapetanovski. It's not just something I would
14:21:33 16 say, "This isn't going ahead" and everyone would fall into
14:21:37 17 line with that decision.
14:21:38 18
14:21:39 19 When did you tell Mr Kapetanovski that Ms Gobbo wasn't
14:21:44 20 going to be called or wasn't going to make a statement, did
14:21:48 21 you ever tell him that?---Not that I remember.
14:21:49 22
14:21:50 23 Did you ever have a discussion with him about how the
14:21:51 24 investigation was going to proceed?---Only in line with,
14:21:56 25 you know, the investigations agreement document that we
14:22:00 26 addressed earlier.
14:22:01 27
14:22:08 28 The notes, certainly as far as the police is concerned, is
14:22:12 29 that the desire was on the part of Mr White to tell you and
14:22:15 30 you only that Ms Gobbo was a human source and no one
14:22:19 31 else?---Yes, I saw that.
14:22:20 32
14:22:20 33 Is that what in fact occurred?---No. I don't remember that
14:22:24 34 happening.
14:22:25 35
14:22:27 36 Are you able to explain how Mr Overland could come back to
14:22:33 37 his offices at Victoria Police after meeting you and say,
14:22:39 38 "It's all right, the OPI's not going to call her"?---No. I
14:22:44 39 just said the records that the OPI, if that was disclosed
14:22:49 40 to me in 06.
14:22:50 41
14:22:50 42 If Mr Overland has come back and the records quite clearly
14:22:54 43 show that he's told his investigators that Gobbo will not
14:22:58 44 be called any longer at this time, it's inevitable, isn't
14:23:03 45 it, that it resulted from a discussion that you had?---No,
14:23:06 46 it's not inevitable. I don't remember that discussion
14:23:09 47 taking place, as I've said to you.

14:23:11 1
14:23:11 2 You may not recall it, but what I'm suggesting to you is
14:23:14 3 that the evidence suggests that it's almost inevitable that
14:23:17 4 if he comes back, having spoken to you and says, "OPI are
14:23:21 5 no longer interested", it must have arisen in the
14:23:24 6 conversation?---If I had material where I could see, you
14:23:29 7 know, what happened in terms of the investigation back at
14:23:31 8 the OPI side of things that might help me in terms of
14:23:35 9 assisting with that, but I haven't seen anything that helps
14:23:38 10 me so I'm still going off my recollection it was 07 I was
14:23:43 11 first told about her.
14:23:44 12
14:23:44 13 If we have a look at ICR number 372, 28 July, this is the
14:23:52 14 following day. It seems that Ms Gobbo has a discussion
14:24:05 15 with her handlers. If we have a look at 18:30, "Possible
14:24:14 16 compromise by ESD, discussion re ESD inquiry, and Attrill
14:24:20 17 interview. She's angry regarding Attrill potentially being
14:24:26 18 aware of her involvement with Police. Told by handler that
14:24:27 19 he has listened to recording of the interview, she's aware
14:24:30 20 that recordings have been made. She was guaranteed that
14:24:35 21 Attrill and ESD do not know that she 's a police source.
14:24:39 22 She's advised that Overland stated that Ms Gobbo's
14:24:42 23 involvement in the investigation re Brown and Shields is
14:24:48 24 finished. No statement to be taken from same and will not
14:24:52 25 be brought before the OPI over the matter", right. That's
14:24:59 26 what she was told the following day. That's consistent
14:25:01 27 again with the notes that have been taken by other
14:25:05 28 investigators about what they were told after Mr Overland
14:25:09 29 goes and speaks to you, do you see that?---Yes.
14:25:11 30
14:25:13 31 Now, would you make a note yourself of any conversation
14:25:20 32 that you had with Overland about these sorts of
14:25:28 33 issues?---Well yes. I made a note of the day, of that
14:25:32 34 particular day when he came and saw me and I went and I
14:25:36 35 would expect I would have - - -
14:25:36 36
14:25:36 37 The only note we have is a note with respect to Operation
14:25:39 38 Air?---Yes.
14:25:40 39
14:25:40 40 The meeting with Cornelius and Overland regarding Operation
14:25:44 41 Air?---Correct.
14:25:44 42
14:25:45 43 Can I suggest to you that there are other matters discussed
14:25:48 44 and you simply don't make a note of it?---No, I would have
14:25:51 45 made a note of it.
14:25:52 46
14:25:52 47 All right?---But there would also be, I mean there would be

14:25:56 1 materials within the OPI that would have talked about, you
14:26:00 2 know, with the legal department, with the Director,
14:26:04 3 et cetera, if there was any of that sort of material.
14:26:06 4
14:26:06 5 Yes?---That could assist me.
14:26:08 6
14:26:08 7 Do you recall ever having discussions, when you say you
14:26:11 8 became aware that Ms Gobbo was a human source, do you ever
14:26:14 9 recall making notes about the fact that Ms Gobbo was a
14:26:17 10 human source in any of your records?---Not that I can
14:26:23 11 remember.
14:26:24 12
14:26:24 13 You wouldn't have, would you?---Why is that?
14:26:27 14
14:26:27 15 If you'd been told she is a human source would you make
14:26:30 16 notes of it?---In a diary?
14:26:32 17
14:26:32 18 Yes?---I could well have.
14:26:33 19
14:26:34 20 You could have? We'll come to your diary in due course.
14:26:37 21 Because you stopped using a diary, didn't you?---Yes.
22
14:26:39 23 In early 2007?---Yes.
14:26:41 24
14:26:43 25 If we then go to 4 September 2006. If we have a look at
14:26:49 26 this document, IBAC document 0020.0001.0023. This appears
14:27:03 27 to be an email from Lindsay Attrill to Michael Davson at
14:27:14 28 the, I assume the Ombudsman's Vic Gov subject meeting with
14:27:22 29 Gobbo. Now, Davson was one of the investigators as we've
14:27:26 30 established?---Yes.
14:27:26 31
14:27:26 32 At the OPI?---Yes.
14:27:27 33
14:27:28 34 It seems that Victoria Police investigators had been told
14:27:37 35 that on 27/28 July 2006, that Gobbo wasn't going to be a
14:27:48 36 participant in the OPI investigation and there was going to
14:27:52 37 be no statement taken from the same and that she wouldn't
14:27:55 38 be brought before the OPI over that matter. Do you accept
14:27:58 39 that?---Yes.
14:27:59 40
14:27:59 41 Because that's what's Gobbo been told on 28 July. It
14:28:03 42 appears that despite that being the information of Victoria
14:28:08 43 Police, it appears that the investigators, your
14:28:11 44 investigators, are in the dark about that because it seems
14:28:17 45 that they're still pursuing Attrill for a response and what
14:28:21 46 was going to happen with Gobbo, do you see that?---Yeah.
14:28:24 47

14:28:28 1 And what we see here is, here's the substance of the
14:28:32 2 meeting with Gobbo as summarised in an investigation
14:28:35 3 report, do you see that, and it sets out in, and the
14:28:41 4 Commission has evidence of the IR report but this appears
14:28:43 5 to be a summary of the IR report, "During the meeting Gobbo
14:28:46 6 became teary and was visibly upset. Emotional state
14:28:50 7 triggered by the disclosure of certain information relevant
14:28:53 8 to Operation Khadi that she believed came from a
14:28:56 9 confidential source known only to her. Surprised and taken
14:29:00 10 aback about her reaction. Became increasingly concerned as
14:29:03 11 the meeting continued. Reasons for my concern cannot be
14:29:07 12 disclosed in this report but were later conveyed to
14:29:10 13 Detective Superintendent Wilson and she asked probing
14:29:14 14 questions. Raised the issue of professional privilege and
14:29:17 15 hearsay. She agreed to allow Swindells to give contact
14:29:23 16 numbers and offered to discuss the intentions to interview
14:29:28 17 as Azzam Ahmed, Scott Faragher, [REDACTED] who were
14:29:34 18 witnesses relevant to the investigation that your people
14:29:38 19 were carrying out. "Gobbo offered to do this providing she
14:29:45 20 was not required to make a statement or appear before any
14:29:49 21 hearing. Swindells and I advised that no undertaking could
14:29:51 22 be given until such time as the matters were discussed and
14:29:54 23 approval given by our superior. Swindells and I returned
14:30:02 24 to the office and discussed our concerns with Detective
14:30:07 25 Superintendent Wilson. Firmly believe that Gobbo has
26 genuine concerns for her safety and I'm of the view that if
14:30:10 27 Gobbo is required to make a statement for this
14:30:12 28 investigation or appear before any hearing, and this is
14:30:14 29 public knowledge or was conveyed in any way to any persons
14:30:18 30 having criminal connections it will have serious
14:30:21 31 consequences for her. And a decision must be reached
14:30:24 32 quickly at a senior level between Victoria Police and the
14:30:25 33 OPI to ensure the issues raised in this report are
14:30:28 34 discussed fully before any further approach is made to
14:30:32 35 Gobbo". Do you see that?---Yes.
14:30:36 36
14:30:37 37 Can I suggest to you that that appears to be a ruse,
14:30:42 38 because as far as I suggest you were concerned and Victoria
14:30:44 39 Police were concerned, by that stage, this is September, a
14:30:50 40 decision had already been taken by Overland, by yourself,
14:30:54 41 that she was not going to be called and she wasn't going to
14:30:57 42 make a statement, do you follow what I'm saying?---I follow
14:31:00 43 what you're saying, but isn't it also suggesting there the
14:31:04 44 investigators were concerned about her safety and welfare
14:31:07 45 by her appearing as a witness. That could be a reason why
14:31:09 46 she wasn't ultimately called, wouldn't it?
47

14:31:13 1 Yes, but you knew?---Why are you placing a sinister
14:31:16 2 connotation on the investigation?
14:31:17 3
14:31:18 4 You knew at this stage she was never going to be called and
14:31:21 5 I suggest to you you hadn't told your investigators?---No.
6
14:31:24 7 You say they were wondering what was going on and so this
14:31:27 8 letter was sent to explain to them how it came to be that
14:31:31 9 Gobbo wasn't going to be called or make a statement?---No.
14:31:33 10
14:31:34 11 That's what I'm suggesting to you?---No, I disagree with
14:31:37 12 your suggestion.
14:31:37 13
14:31:37 14 In the end Ms Gobbo was in the called to an OPI hearing,
14:31:44 15 you accept that?---Yes, to my knowledge.
14:31:46 16
14:31:46 17 And not only that, she was not asked to make a statement, I
14:31:52 18 suggest to you?---I don't recall her making a statement.
14:31:56 19
14:31:56 20 I can tell you that, I can tell you that the final
14:31:59 21 investigation report appears not to contain any reference
14:32:03 22 to a statement made by Ms Gobbo?---Which investigative
14:32:07 23 report?
14:32:07 24
14:32:07 25 In relation to Operation Khadi?---Khadi, okay.
14:32:12 26
14:32:12 27 And despite the fact that she appears to be a quite
14:32:14 28 significant witness in these events, she's let out without
14:32:21 29 being a witness or making a statement?---Well if there was
14:32:24 30 no statement taken, yes.
14:32:25 31
14:32:33 32 If it was the case that, can I make this clear: if it was
14:32:41 33 the case that you had been informed that Ms Gobbo was a
14:32:46 34 human source and you were asked not to tell anyone by
14:32:55 35 Victoria Police, what would you have said to that?---Well I
14:32:58 36 wouldn't have been able to give that undertaking because it
14:33:01 37 wouldn't have been my decision to make.
14:33:04 38
14:33:10 39 If the agreement was made on 27 July of 2006, between you
14:33:18 40 and Overland, that she wouldn't be called and wouldn't
14:33:22 41 further participate, wouldn't you have told your
14:33:28 42 investigators that on the day?---If it was disclosed to me
14:33:33 43 I would have had to tell a range of people in the OPI,
14:33:39 44 including the investigators, yes.
14:33:39 45
14:33:40 46 If Overland is able to go back to his investigators and
14:33:42 47 comfortably say the OPI is not going to be calling her and

14:33:47 1 Gobbo's able to be told the following day she's not even
14:33:50 2 going to have to make a statement, do you agree it looks
14:33:52 3 like the police are aware of that situation?---From those
14:33:56 4 notes, yes.
14:33:56 5
14:33:57 6 On 28 July?---Yes.
14:33:58 7
14:33:58 8 How can it be that your investigators are still in the dark
14:34:01 9 about that around September of 2000 and - - - ?---Because I
14:34:06 10 don't recall that being disclosed to me, and that would be
14:34:09 11 suggestive of the fact that it wasn't.
14:34:11 12
14:34:11 13 I tender that email, Commissioner.
14:34:15 14
14:34:15 15 COMMISSIONER: Was it 4 September or December?
14:34:18 16
14:34:18 17 MR WINNEKE: If we go to the top, 4 September 2006.
14:34:22 18
14:34:22 19 COMMISSIONER: September thanks.
14:34:23 20
14:34:24 21 MR WINNEKE: Scroll down, please. And that's from Michael
14:34:28 22 Davson, forwarded to John Kapetanovski for his information.
14:34:38 23
14:34:39 24 #EXHIBIT RC864A - (Confidential) Email chain from Davson to
14:34:47 25 Kapetanovski, Attrill 4/9/06.864A
14:34:55 26
14:34:55 27 #EXHIBIT RC 864B
14:34:59 28
14:35:02 29 If you were aware that Ms Gobbo was a human source in
14:35:09 30 around July 2006, and was providing information to Victoria
14:35:18 31 Police, a barrister, would that have been a matter of
14:35:21 32 concern to you or interest to you?---Probably be the same
14:35:27 33 as if they, like they told me in 2007, probably would have
14:35:38 34 acted in the same way in my mind.
14:35:39 35
14:35:40 36 Let's then move forward to 2007. Is it a matter of concern
14:35:44 37 or interest to you as a member of the OPI that the police
14:35:46 38 are using a barrister as a human source?---Certainly of
14:35:48 39 interest to me, yes, certainly.
14:35:50 40
14:35:51 41 If it's of interest to you that they're using a barrister,
14:35:55 42 a criminal barrister who appears for significant underworld
14:36:01 43 figures, would you be wanting to know what sort of
14:36:05 44 information she's providing and in relation to whom she's
14:36:08 45 providing that information?---No.
14:36:10 46
14:36:10 47 You wouldn't want to?---No, I wouldn't have wanted to know

14:36:14 1 at that point.

14:36:15 2

14:36:15 3 Why not?---I was working at the OPI at that stage and I was
14:36:19 4 responsible for investigating misconduct, corruption in
14:36:22 5 Victoria Police.

14:36:23 6

14:36:23 7 Well here we are now more than ten years later
14:36:27 8 investigating just that in relation to a barrister who was
14:36:31 9 used by Victoria Police as a human source, do you think it
14:36:34 10 might have been something which would have piqued your
14:36:38 11 interest at that stage?---No, because now we know a lot
14:36:41 12 more about that than I knew then.

14:36:43 13

14:36:43 14 Yeah, but if you'd asked a few questions do you think you
14:36:46 15 might have discovered a little bit more?---Potentially, but
14:36:50 16 there really wasn't anything that was - that would anything
14:36:51 17 driving me to ask those sorts of questions.

14:36:53 18

14:36:53 19 What, the mere fact you have a barrister acting for people
14:36:57 20 like Mokbel and associates, also a human source, would you
14:37:03 21 not even want to ask: well who is she providing information
14:37:07 22 about, what's it all about: Wouldn't you want to ask
14:37:12 23 that?---Matters involving human sources were always -
14:37:14 24 highly confidential due to the safety of human sources, so
14:37:18 25 it's not a natural thing to be asking those questions, and
14:37:21 26 if at that time Victoria Police saw fit to have a barrister
14:37:24 27 as a human source, it wasn't the suggestion there was
14:37:28 28 anything untoward going on with that.

14:37:30 29

14:37:32 30 I'll come to that, but you say it's not something that you
14:37:36 31 would be interested in at all?---I'm interested in it,
14:37:39 32 obviously I was a member of the Petra Task Force at that
14:37:42 33 time and I knew that, I was joining those dots that she was
14:37:47 34 3838, so of course I was interested in it.

14:37:49 35

14:37:50 36 I'm going to come to that in due course. You say, "Look, I
14:37:53 37 wouldn't have asked about it as general, all these are the
14:37:56 38 sorts of things you don't ask about, informers". I mean
14:38:00 39 ultimately you were led to the fact she was an informer,
14:38:04 40 they told you that, didn't they?---2007, yes.

14:38:07 41

14:38:18 42 If we have a look at the Operation Khadi final report
14:38:25 43 VPL.0005.0147 dated 23 November 2006. That's the Victorian
14:38:41 44 Police side of things. If we scroll through that, I'm
14:38:48 45 going to tender this in due course, Commissioner, it may be
14:38:51 46 tendered already. It's a lengthy document.

14:38:58 47

14:38:59 1 COMMISSIONER: Exhibit 826.
14:39:00 2
14:39:00 3 MR WINNEKE: Yes, thanks Commissioner. If you conduct a
14:39:09 4 joint investigation in which you are a signatory, would you
14:39:14 5 be provided with the report from Victoria Police?---Well
14:39:20 6 the investigators may have, I don't recall seeing this
14:39:22 7 document before.
14:39:23 8
14:39:26 9 Whether or not you recall seeing it, as a matter of course
14:39:30 10 if you're the person who's in charge of the investigations
14:39:35 11 division at the OPI, would you call for and sign a document
14:39:40 12 which is a joint agency agreement, would you want to see
14:39:44 13 the product of the investigation?---Well you're kept
14:39:48 14 appraised of how the investigation is going, as to whether
14:39:51 15 you saw the end document, it may or may not occur.
14:39:55 16
14:39:56 17 It may not, but would you, as a person who's executing your
14:40:01 18 functions, ask to see the report as a matter of course and
14:40:06 19 have a look at it?---Not on all occasions, no.
14:40:09 20
14:40:12 21 This is the police version of it. You understand that
14:40:16 22 there'd be a, there's an OPI version of it. I can't
14:40:20 23 immediately bring it to hand, Commissioner, but there is
14:40:23 24 one. Would you have looked at that one?---Yes.
14:40:26 25
14:40:27 26 You believe you would have looked at that?---I believe I
14:40:29 27 probably would have, yes.
14:40:30 28
14:40:30 29 All right then. It seems that the decision to call
14:40:55 30 Ms Gobbo before the OPI was put off until the following
14:41:05 31 year, until 2007?---Yes.
14:41:07 32
14:41:11 33 The evidence that the Commission has is that certainly, and
14:41:15 34 consistent with the notes that we've seen, that it was
14:41:18 35 intended in due course to call Ms Gobbo and coercively
14:41:23 36 examine her and that's something that you continued to be
14:41:27 37 aware of, I take it, is that right?---Yes, in 07, yep.
14:41:31 38
14:41:33 39 What you say in your statement is that, paragraph 58, that
14:41:39 40 you met with Luke Cornelius, who was the AC Ethical
14:41:45 41 Standards, and Simon Overland on 26 February 2007 and you
14:41:50 42 also met with Chief Commissioner Nixon to discuss the
14:41:54 43 establishment of a Task Force called Briars. Do you recall
14:41:58 44 that?---Yes.
14:41:59 45
14:42:03 46 You were aware that the purpose of that Task Force,
14:42:05 47 proposed Task Force was to investigate police involvement

14:42:09 1 in the murder of Shane Chartres-Abbott?---Yes.

14:42:12 2

14:42:12 3 And is it the case that you had had discussions with Simon

14:42:23 4 Overland in the lead up to that meeting that you refer to

14:42:27 5 on 26 February, with a view to in effect putting you in the

14:42:31 6 picture about what was proposed?---Yes, in February 07,

14:42:38 7 yes, yes.

14:42:38 8

14:42:38 9 What you say is that you did meet on 26 February 2007 but

14:42:47 10 what I'm suggesting to you is that there were meetings

14:42:50 11 prior to that in the lead up to the establishment of that

14:42:54 12 Task Force. Do you accept that?---There could have been,

14:42:57 13 yes.

14:42:57 14

14:42:58 15 And this was an unusual Task Force because in effect it was

14:43:01 16 going to be based on your premises, at your office?---Yes,

14:43:06 17 that was really, they had concerns about corruption within

14:43:12 18 Victoria Police in terms of people reaching in and finding

14:43:16 19 out about this particular murder investigation, they were

14:43:20 20 conducting and they were concerned about that information

14:43:23 21 being passed to people who may have been the subject of it,

14:43:26 22 so they were really wanting to talk to us about it to house

14:43:30 23 an investigative team on our premises so it would provide

14:43:34 24 information security and, you know, possible access to, you

14:43:41 25 know OPI telephone intercepts or surveillance, physical

14:43:45 26 surveillance.

14:43:45 27

14:43:45 28 So they wanted to access your legislative powers to obtain

14:43:57 29 TIs and surveillance and so forth?---Potentially, yes.

14:43:59 30

14:44:00 31 It sounds a bit like a joint investigation, doesn't

14:44:03 32 it?---We did it as a joint investigation but it was at

14:44:06 33 their instigation and request.

14:44:07 34

14:44:08 35 They having made the request were you quite happy to

14:44:11 36 accommodate them?---Yes.

14:44:12 37

14:44:15 38

14:44:22 39

14:44:26 40

14:44:31 41

14:44:35 42

14:44:36 43

14:44:36 44 I don't want to go into detail of that?---Yeah. Part of my

14:44:42 45 statement is redacted.

14:44:43 46

14:44:44 47 We might need - sorry, that might need to be removed from

14:44:49 1 the record if that's the case.
14:44:52 2
14:44:52 3 COMMISSIONER: Yes.
14:44:53 4
14:44:53 5 MR WINNEKE: I'm sorry, I was working from an unredacted
14:44:56 6 copy, I apologise.
14:44:57 7
14:44:58 8 COMMISSIONER: Just to be clear, what are we taking out?
14:45:02 9
14:45:02 10 MR HOLT: Line 7, Commissioner, to perhaps line, line 14
14:45:08 11 might be complete.
14:45:09 12
14:45:09 13 COMMISSIONER: All right, line 7 to 11 should be redacted
14:45:13 14 from the transcript and taken out of the live stream,
14:45:15 15 thanks.
14:45:18 16
14:45:22 17 MR WINNEKE: I should say, Commissioner, I don't know
14:45:24 18 whether, that claim to PII hasn't been ventilated or
14:45:29 19 argued, but I'm content at this stage to leave that be for
14:45:33 20 the moment.
14:45:33 21
14:45:34 22 COMMISSIONER: All right then.
14:45:36 23
14:45:44 24 MR WINNEKE: So what you say, "As a result of the concerns,
14:45:47 25 Chief Commissioner Nixon, then Deputy Commissioner Overland
14:45:51 26 and Assistant Commissioner Cornelius said they wanted the
14:45:56 27 OPI to be involved in the investigation, they wanted the
14:45:59 28 Task Force to be housed at the OPI offices and wanted the
14:46:00 29 OPI to use its own phone taps and surveillance". And this
14:46:02 30 was the first time that there had been such an agreement,
14:46:06 31 is that right?---Yes.
14:46:06 32
14:46:08 33 Now, it seems that you'd been having discussions with
14:46:14 34 Cornelius and Overland, whether about this or other
14:46:18 35 matters, for some period of time. But if we have a look at
14:46:23 36 your diary on, for example, 23 January 2007, it appears
14:46:30 37 that you had attended ESD and you'd met with Cornelius and
14:46:37 38 Overland on a range of issues. If we have a look at your
14:46:43 39 diary on that date. 0008.0001.0027. Perhaps if we can
14:47:06 40 look at IBAC.0008.0001.0027 at p.1. This is a document
14:47:15 41 which I think had been prepared by AC Cornelius. You'll
14:47:27 42 see this is a chronology which has been prepared by, the
14:47:32 43 evidence is it's been prepared by Luke Cornelius and it was
14:47:37 44 provided to the OPI on the 3rd of the 10th 07. Briars
14:47:43 45 contacts with Linnell and Ashby. Chronology prepared
14:47:48 46 following briefing from Graham Ashton on 14 September 2007
14:47:51 47 for the information from the OPI", do you see that? The

14:47:54 1 developments are, "In late January received a verbal
14:47:58 2 briefing from DC Overland re possible involvement in the
14:48:02 3 murder of Chartres-Abbott and the possibility that we may
14:48:02 4 establish a Task Force to investigate. The matter was
14:48:05 5 pending as a statement from an informant was still under
14:48:08 6 preparation and consideration". Do you see that?---Yes, I
14:48:11 7 see that entry, I didn't - yep, yep.
14:48:15 8
14:48:15 9 You certainly, as I've indicated previously, your diary
14:48:19 10 indicates that you have a meeting with Overland and
14:48:21 11 Cornelius on the 23rd of January and it may well be that
14:48:25 12 these matters, being in the winds, might have been
14:48:29 13 discussed at around that time?---Could have been, yes.
14:48:33 14
14:48:33 15 And then we see, if we go to 6 February 2007, your diary
14:48:43 16 refers to - so what's in front of you there is your diary
14:48:49 17 of 23 January, do you see that?---Yes.
14:48:51 18
14:48:52 19 Then if we go to 6 February, we see at 4 pm you meet with
14:48:58 20 the Chief Commissioner Nixon at VPC re matters relating to
14:49:03 21 the OPI and it seems to be VP. So we have a look at that.
14:49:10 22 That's at p.65 of that same document. RCMPI.0097 - that's
14:49:26 23 it there. So you met with CPC Nixon, VPC, re matter
14:49:31 24 relating to the OPI. That's likely, I take it, to be a
14:49:36 25 preliminary meeting with the Chief Commissioner about this
14:49:38 26 upcoming significant investigation, would that be fair to
14:49:42 27 say?---It could have been, yes.
14:49:43 28
14:49:47 29 And then there are further, you have a further meeting with
14:49:53 30 Mr Cornelius on 20 February 2007, if we go to p.66 of that
14:50:03 31 document. At about 15:00 hours down the bottom there.
14:50:17 32 "Discussions, ESD, OPI, it seems directions meeting with
14:50:23 33 Luke Cornelius, general issues discussed"?---Yes.
14:50:26 34
14:50:28 35 Now, that meeting occurs - and it goes from about 15:00.
14:50:41 36 It appears from that meeting that there was a discussion
14:50:46 37 with Mr Cornelius and there's no real detail about the
14:50:49 38 matters that were discussed. If we have a look at - John
14:50:56 39 Nolan, who's he?---John was the investigations manager at
14:51:00 40 the OPI.
14:51:00 41
14:51:02 42 If we have a look at his diary of the same day,
14:51:13 43 IBAC.0019.0001.0001 at p.22. He makes, appears to make a
14:51:23 44 note of that conversation. Previous page. Now, if we have
14:51:38 45 a look at his entry at the bottom at 15:00 hours, do you
14:51:42 46 see that, bottom left corner, "Meeting with Graham Ashton,
14:51:48 47 Simon Overland, Luke Cornelius, Danye Moloney". That

14:51:52 1 appears to be on the same day, unless I'm mistaken, there's
14:51:57 2 a more fulsome record as to who attends, although there's
14:52:01 3 still no reference to anything that was discussed?---Yes.
14:52:03 4
14:52:03 5 Now do you recall that meeting on the 20th with Overland,
14:52:12 6 Cornelius, Danyne Moloney?---I don't recall the specifics
14:52:16 7 of that meeting. I'm happy to accept that there was a
14:52:18 8 meeting from the diary entries, yes.
14:52:20 9
14:52:22 10 Are you able to explain why you would refer to meeting only
14:52:26 11 with Cornelius and he would refer to a significant number
14:52:29 12 of other people?---No, I regularly met with Luke regarding,
14:52:35 13 because we were doing complaint oversight and we would be
14:52:39 14 running through a range of complaint matters that ESD would
14:52:42 15 be doing and there was, they could take sometimes quite a
14:52:46 16 lot of time to go through them all. Whether he showed me
14:52:50 17 that previous one, that looked to me to be more a reference
14:52:53 18 to one of those type of meetings to me.
14:52:55 19
14:52:56 20 It seems to refer to the same time, 15:00 hours, and it
14:52:59 21 does, can I suggest, appear to be significant because if we
14:53:06 22 go to your notes the following day, your notes the
14:53:11 23 following day, at the bottom, you'd stopped taking
14:53:21 24 notes?---Yes, I made a note of that, that's right.
14:53:25 25
14:53:25 26 So we know that there's a significant operation beginning.
14:53:31 27 You've had meetings with Nixon, you've had meetings with
14:53:36 28 Overland, you've had meetings with Moloney, Cornelius, and
14:53:42 29 nothing's said in your notes about that meeting. Would
14:53:45 30 there be a reason why you wouldn't take any note or write
14:53:49 31 out in your notes about what the meeting is - - - ?---No, I
14:53:52 32 guess as I said perhaps it was of a more general nature,
14:53:55 33 they may have come into the meeting as part of that I can
14:53:59 34 only suggest as a possibility.
14:54:01 35
14:54:01 36 Can I suggest to you that this is the beginning of your
14:54:04 37 involvement with Victoria Police in Briars which is a very
14:54:09 38 significant investigation that's occurring at the offices
14:54:17 39 OPI physically, and you say it's involving matters there's
14:54:20 40 a great deal of concern about information getting
14:54:28 41 out?---Yes.
14:54:28 42
14:54:28 43 Do you accept that?---Yes.
14:54:29 44
14:54:29 45 It does appear as if you've decided to stop taking notes as
14:54:34 46 a consequence of those matters?---I decided to stop taking
14:54:38 47 notes in terms of my diary because of conversations I'd

14:54:41 1 been having with the legal department in OPI about our
14:54:44 2 subpoena provisions being, the legislation being
14:54:48 3 insufficient and their concerns about the fact that we
14:54:51 4 needed legislative change to better protect information
14:54:55 5 which the OPI gathered.
14:54:56 6
14:55:00 7 I asked you before about the reason why you take notes and
14:55:04 8 the reason why you take notes is to assist you in
14:55:06 9 circumstances like you're in now, for one?---(Witness
14:55:10 10 nods.)
14:55:10 11
14:55:11 12 So you're not forced into a position to say, "I can't
14:55:14 13 recall, I've got no note of that, I don't know what
14:55:18 14 happened"?---Also to provide a record of what's happened,
14:55:21 15 yes.
14:55:21 16
17 Sorry?---To provide a record of what's happened, yes.
18
14:55:21 19 And you say that in your note here, you say, "In light of
14:55:27 20 recognition of weaknesses in the OPI subpoena
14:55:32 21 provisions"?---Yep.
14:55:34 22
14:55:36 23 "I took a decision not to maintain an official diary until
14:55:41 24 the matter was clarified. That was done on 1 July 2008.
14:55:46 25 Now that OPI has adequate subpoena protection I will resume
14:55:50 26 my official diary. For matters in the interim I refer to
14:55:58 27 correspondence and my electronic diary", do you see
14:56:01 28 that?---Yes.
14:56:01 29
14:56:02 30 That note appears to have been taken either on 1 or 2 May,
14:56:07 31 or 1 or 2 July 2008, some 17, 18 months later?---Yes.
14:56:13 32
14:56:13 33 As I indicated, you simply stopped taking notes at - your
14:56:17 34 last one was 5 pm on 21 February 2006?---Yes, in my diary,
14:56:22 35 that's right.
14:56:23 36
14:56:24 37 And you say that you had had discussions with the legal
14:56:29 38 department at the OPI, is that right?---Yes, and it was
14:56:32 39 well-known, and with the Director as well.
14:56:34 40
14:56:34 41 You were instructed, were you, to stop taking notes?---No,
14:56:38 42 they didn't tell me to stop taking notes.
14:56:40 43
14:56:41 44 Right?---I took that decision.
14:56:42 45
14:56:43 46 Right. And did you direct any of your other investigators
14:56:46 47 to stop taking notes?---No.

14:56:48 1
14:56:49 2 So you, did you speak to anyone and indicate to them you
14:56:54 3 were going to stop taking notes?---I believe I told the
14:56:58 4 Director and at some stage the legal department about it.
14:57:00 5
14:57:00 6 When did you tell the Director about it?---It was around
14:57:05 7 the time I would have ceased taking notes.
14:57:07 8
14:57:08 9 Do you think you told Mr Brouwer around 21 February you
14:57:11 10 weren't going to take any more notes?---And then I think
14:57:15 11 within the legal department I think at some stage I made
14:57:18 12 them aware, I don't know exactly when.
14:57:20 13
14:57:21 14 What you say is, and this is an ex post facto justification
14:57:27 15 because there's no contemporaneous record of why you stop
14:57:33 16 taking notes. The note that we see was put in there in
14:57:35 17 effect when you start taking notes again. Do we see a note
14:57:40 18 anywhere, aside from that one, which makes it clear as to
14:57:44 19 the reasons why you decided to stop taking notes?---I just
14:57:47 20 explained to you why I did and there's a diary entry as to
14:57:51 21 why I did in my diary there that you've just got up at the
14:57:53 22 moment.
14:57:53 23
14:57:54 24 Have you got a legal advice about that?---They were from
14:57:59 25 discussions I had with the legal department, I didn't get a
14:58:03 26 written legal advice on it, no.
14:58:03 27
14:58:03 28 Did you make any notes of receiving legal advice about the
14:58:07 29 provisions of the legislation?---Not written legal advice,
14:58:12 30 no.
14:58:12 31
14:58:14 32 Because again it appears that, can I suggest to you, you
14:58:18 33 have a meeting with Overland, Moloney and Cornelius, you've
14:58:22 34 got this big operation planned and you stop taking notes.
14:58:25 35 It does look as if, can I suggest, that you've had this
14:58:28 36 discussion with them and there's been an agreement, a
14:58:34 37 matter that you've agreed with, to stop taking
14:58:38 38 notes?---I've reached some agreement with Overland to stop
14:58:42 39 taking notes is that what you're asserting?
14:58:44 40
14:58:45 41 That's what I'm suggesting it looks like?---No, no.
14:58:48 42
14:58:48 43 You are involved in oversight, looking at the conduct of
14:58:51 44 Victoria Police, right?---Yes.
14:58:53 45
14:58:53 46 Correct?---Yes.
14:58:53 47

14:58:53 1 You're not involved in nefarious activities, you are a
14:58:58 2 publicly funded, an independent Government agency which is
14:59:01 3 involved in oversight of Victoria Police, do you accept
14:59:03 4 that proposition?---Yes.
14:59:04 5
14:59:05 6 What possible basis is there for you not to record your
14:59:07 7 actions?---I've just explained that in the diary note.
14:59:11 8
14:59:12 9 Can you explain it again, please?---The legislation in
14:59:16 10 regards to the establishment of the OPI was deficient in a
14:59:19 11 whole range of areas when it was set up and it became
14:59:22 12 apparent that the ability for the OPI to protect its
14:59:26 13 information was seriously suspect and the OPI had to start
14:59:30 14 working to get legal amendments to try and strengthen the
14:59:37 15 provisions of the OPI to allow it to retain its information
14:59:39 16 with more confidence, and I believe that ultimately
14:59:43 17 happened.
14:59:43 18
14:59:43 19 Do you say that principles such as the public interest
14:59:49 20 immunity claim do not apply and did not apply to the
14:59:53 21 OPI?---It would have applied.
14:59:56 22
14:59:56 23 Of course it would have applied. You would be in no
14:59:59 24 different position to a member of the Victoria Police
15:00:02 25 Force. If for whatever reason a court wanted to know what
15:00:06 26 you were doing at a particular time and your notes were
15:00:09 27 subpoenaed, you would be able to engage a legal
15:00:11 28 practitioner, VGSO or whoever it was, to make the claim
15:00:14 29 that these notes should not be produced because it would be
15:00:18 30 injurious to the public, correct?
15:00:21 31
15:00:21 32 MR COLEMAN: Commissioner, Mr Ashton has answered this
15:00:23 33 question three times now about why he stopped taking notes.
15:00:27 34 He's referred to his explanation. The last point made by
15:00:32 35 my learned friend in his submission.
15:00:32 36
15:00:32 37 COMMISSIONER: I think Mr Winneke is entitled to test the
15:00:35 38 explanation so I'll allow the question to be put.
15:00:39 39
15:00:40 40 MR COLEMAN: If the Commissioner pleases.
15:00:40 41
15:00:46 42 MR WINNEKE: Did you understand that a claim could be made
15:00:50 43 for public interest immunity if your notes were subpoenaed
15:00:53 44 or called for?---Well the establishment of the OPI was
15:00:57 45 around the ability to coercively examine people and to
15:01:02 46 obtain information on, by compulsion essentially, and so
15:01:07 47 there was care taken, or supposedly taken with the

15:01:09 1 establishment of the legislation to provide, for example,
15:01:13 2 you know, protection against things like being sued,
15:01:16 3 et cetera, and also protections in relation to information
15:01:19 4 that the OPI had. Then it became apparent that these
15:01:24 5 provisions, this protection was not openly available and
15:01:28 6 then it would be up for, we'd have to be, instead of
15:01:32 7 claiming automatically we couldn't provide the stuff, we
15:01:35 8 would then be tested and subject to, as you say, some LPP
15:01:39 9 claim, and there was concern and discussion, quite a lot of
15:01:43 10 discussion around at the OPI about whether the intent of
15:01:47 11 the original legislation could be in fact fixed with some
15:01:51 12 sort of legislative amendment to give the OPI this sort of
15:01:54 13 protection and ultimately that occurred.
15:01:56 14
15:01:56 15 It may well have but it does appear, at least, that you
15:02:03 16 would have the ability to make a claim for public interest
15:02:07 17 immunity, if there was a proper basis to make the claim, if
15:02:12 18 you keep notes, and if you're concerned about the notes
15:02:15 19 that claim could always be made, could it not?---I did
15:02:19 20 continue to keep records in the electronic calendar of
15:02:23 21 important meetings, et cetera.
15:02:24 22
15:02:25 23 I think you were, you gave evidence at a committal some
15:02:31 24 time ago I think in relation to Mr Ashby who was charged as
15:02:35 25 a consequence - - - ?---Several years ago.
15:02:37 26
15:02:38 27 I think you were asked questions by now Justice Priest on
15:02:46 28 behalf of that person, do you recall that? I might be
15:02:49 29 wrong about that?---No, I think I was cross-examined.
15:02:52 30
15:02:52 31 About the fact you hadn't kept notes and you said you
15:02:56 32 hadn't kept notes?---Hmm hmm, I didn't keep a diary.
15:02:59 33
15:02:59 34 Was that correct? You didn't keep a diary. Insofar as an
15:03:04 35 electronic diary though, do you say that you kept an
15:03:08 36 electronic diary?---An electronic record of what meetings I
15:03:10 37 had and with whom, so there was a record if someone was
15:03:13 38 coming to see me that there was a meeting.
15:03:15 39
15:03:15 40 Right. But you didn't keep an electronic diary.
15:03:18 41
15:03:18 42 COMMISSIONER: I think you referred to that document as an
15:03:21 43 electronic calendar at one point?---Yes.
44
15:03:25 45 Is that a more accurate description?---Yes, I think so.
15:03:27 46
15:03:28 47 MR WINNEKE: Insofar as your notes suggest that you had an

15:03:30 1 electronic diary, that wouldn't be really accurate, would
15:03:35 2 it?
15:03:36 3
15:03:36 4 MR COLEMAN: I think he has explained that, Commissioner,
15:03:38 5 that's unfair.
15:03:40 6
15:03:41 7 MR WINNEKE: Do you see a difference between an electronic
15:03:45 8 calendar which records where you happen to be on a
15:03:48 9 particular day and a diary which records what happened on a
15:03:52 10 particular day?---Who was coming to see me and who was
15:03:53 11 there is different from having a written diary, yes.
15:03:57 12
15:03:57 13 You sought to convey in your note here that you had an
15:04:00 14 electronic diary and you say in fact that's not
15:04:04 15 correct?---Well, depends what you, the definition of
15:04:08 16 electronic diary. As I explained to you, it's an
15:04:11 17 electronic record of who came to see me, what time, who was
15:04:15 18 there, when.
15:04:16 19
15:04:16 20 I think you've explained that you understood the difference
15:04:19 21 between a diary and a calendar.
15:04:22 22
15:04:22 23 COMMISSIONER: I think we might move on.
15:04:25 24
15:04:25 25 MR WINNEKE: Yes, I'm going to move on.
15:04:27 26
15:04:27 27 COMMISSIONER: Thanks.
15:04:28 28
15:04:34 29 MR WINNEKE: You enter into a joint agency agreement again
15:04:38 30 in relation to Task Force Briars, is that
15:04:42 31 correct?---Briars, yes.
15:04:43 32
15:04:43 33 VPL.0005.0012.0610. If we scroll down to the bottom of
15:04:55 34 that document. We'll see the operation management group
15:05:02 35 consists of Simon Overland, Luke Cornelius and yourself.
15:05:07 36 See that?---Yes.
15:05:09 37
15:05:09 38 "Maintain coordination of the operation, enhance
15:05:12 39 cooperation, information sharing between participating
15:05:15 40 agencies. Monitor the results of the operation against its
15:05:19 41 aims and scopes", do you see that?---Yes.
15:05:21 42
15:05:22 43 "Ensure the efficient collection and timely dissemination
15:05:27 44 of information and intelligence", right. Do you sign that
15:05:32 45 document?---I believe I did, yes.
15:05:35 46
15:05:36 47 If we go to the bottom of that. Signed on the 22nd of

15:05:47 1 March 2007, is that correct?---Yes.
15:05:49 2
15:05:49 3 I think you also entered into an arrangement with respect
15:05:53 4 to cost sharing, is that right?---Yes, I think there was
15:05:57 5 some subsequent agreement about costs because they were up
15:06:01 6 at our office and there was obviously things like rental
15:06:05 7 space, I think we had to lease additional space to
15:06:08 8 accommodate them.
15:06:09 9
15:06:09 10 I tender that document, Commissioner.
15:06:12 11
15:06:13 12 #EXHIBIT RC865A - (Confidential) Joint agency agreement
15:06:14 13 Task Force Briars.
15:06:17 14
15:06:18 15 #EXHIBIT RC865B - (Redacted version.)
15:06:20 16
15:06:21 17 That clearly is the document which sets out the joint
15:06:26 18 investigation into the Chartres-Abbott murder, is that
15:06:30 19 right?---Yes.
15:06:31 20
15:06:32 21 Shortly after that you'd been having discussions about the
15:06:41 22 other investigation that you and Victoria Police were
15:06:44 23 involved in and that was the murder of the Hodsons,
15:06:50 24 correct?---Yes.
15:06:50 25
15:06:52 26 And you say, I think in your statement, that it was
15:06:55 27 established on 25 April 2007 following the making of a
15:07:00 28 statement by Carl Williams to further investigate the
15:07:03 29 murders of the Hodsons and the link between Paul Dale and
15:07:06 30 those murders, is that right?---Yes.
15:07:08 31
15:07:09 32 And it was comprised - that wasn't based at the offices of
15:07:14 33 the OPI, is that right?---No, that was based somewhere at
15:07:18 34 Victoria Police.
15:07:19 35
15:07:19 36 When you had meetings, Task Force meetings in relation to
15:07:24 37 that operation, would you attend the Victorian Police
15:07:29 38 Centre or where would they be?---Usually they were at
15:07:33 39 Mr Overland's office down at the Victoria Police Centre.
15:07:37 40
15:07:37 41 And what about the Task Force meetings with respect to
15:07:40 42 Briars, were they also at Overland's office or were they -
15:07:45 43 - - ?---I think initially they were and then after a while
15:07:48 44 they started being held down at Luke Cornelius' office at
15:07:55 45 ESD.
15:07:56 46
15:07:56 47 But always at the Victoria Police Centre, is that

15:07:58 1 right?---Yes. I don't remember any being held at OPI.
15:08:02 2
15:08:03 3 All right. And were those meetings held one after the
15:08:08 4 other generally?---Yeah, initially I think they were held
15:08:13 5 one after the other and then after a while they were sort
15:08:15 6 of separated. Just when they started being held down at
15:08:20 7 Luke's office I think sometimes they wouldn't be.
15:08:22 8
15:08:22 9 Did you also sit in on Purana meetings on
15:08:26 10 occasions?---Purana meetings?
15:08:27 11
15:08:27 12 Yes. Did you ever sit in on Purana meetings?---No, I'd
15:08:32 13 usually be sitting outside waiting for the Purana meeting
15:08:36 14 to finish before I would go into that.
15:08:38 15
15:08:38 16 When there was a meeting of either Petra or Briars were you
15:08:44 17 provided with a briefing as to what was going to be
15:08:48 18 discussed?---You mean before the meeting happened?
15:08:53 19
15:08:53 20 Before the meeting happened?---No.
15:08:55 21
15:08:55 22 So what were you, what documents were you provided with
15:08:59 23 when you had a meeting at - - - ?---Normally when you went
15:09:03 24 into a Petra meeting you'd be handed a piece of paper which
15:09:08 25 was a summary for the meeting and everyone at the meeting
15:09:12 26 would be given a copy of that summary.
15:09:14 27
15:09:15 28 Did you retain that?---Yes.
15:09:16 29
15:09:17 30 And did you make notes on it?---From time to time.
15:09:20 31
15:09:21 32 And did you take that document back with you and keep it on
15:09:25 33 a file at the OPI?---Yes, in the safe in my office.
15:09:29 34
15:09:32 35 Did you make notes of what was discussed as a general rule,
15:09:36 36 I'm speaking generally at those meetings?---On those
15:09:40 37 documents from time to time if there was a need I'd make a
15:09:43 38 note in addition to what was on the update.
15:09:45 39
15:09:48 40 Do you know whether the meetings were minuted?---Well there
15:09:54 41 was Luke Cornelius there taking notes and - - -
15:09:58 42
15:09:58 43 We have his handwritten notes on the document that he'd
15:10:06 44 been provided, that's the extent of it, is it?---Generally
15:10:09 45 he's sort of regarded as the minute taker, yeah.
15:10:12 46
15:10:12 47 As far as you were concerned there weren't any official

15:10:15 1 minutes taken. It may well be earlier on I think [REDACTED]
15:10:21 2 [REDACTED] might have taken some notes, although that seemed to
15:10:24 3 peter out reasonably shortly?---Yes, I remember she would
15:10:27 4 be in the room taking some notes as well, yes.
15:10:29 5
15:10:30 6 Do you know whether there was a directive at some stage to
15:10:32 7 the effect that there were not to be any longer any minutes
15:10:35 8 taken of the meetings?---No, I don't remember that being
15:10:38 9 said.
15:10:38 10
15:10:39 11 No, all right. Just before I move on, when you decided
15:10:56 12 yourself to stop taking notes, keeping an official diary,
15:11:01 13 is that something that you discussed with other
15:11:03 14 investigators as to whether or not they should be stopping
15:11:08 15 their diaries, their official diaries or not?---I don't
15:11:11 16 remember having conversations with other investigators
15:11:13 17 about it, no.
15:11:14 18
15:11:15 19 It may be at least from our endeavours to find out what was
15:11:20 20 going on with the notes that you were the only person who
15:11:23 21 was, who decided not to continue taking an official diary,
15:11:27 22 would that surprise you or not?---It may well have been the
15:11:31 23 case.
15:11:31 24
15:11:31 25 At the OPI?---That may well have been the case.
15:11:33 26
15:11:34 27 Were any people other than you involved in Petra or Briars
15:11:39 28 in an oversight way?---There'd be some meetings if I
15:11:44 29 couldn't go to generally it would be John Nolan that would
15:11:47 30 go to the meetings.
15:11:48 31
15:11:48 32 All right. One of the obligations that you had as a member
15:11:53 33 of the OPI was to, as I understand it, conduct oversight
15:12:00 34 responsibilities with respect to these
15:12:04 35 investigations?---Yes.
15:12:04 36
15:12:06 37 Now, one would assume that it would be important to keep a
15:12:13 38 fairly clear and comprehensive record of the matters that
15:12:18 39 were going on, the matters that were being discussed in
15:12:21 40 order for you to carry out that oversight responsibility,
15:12:24 41 wouldn't it?---If there was a need for me to take some
15:12:27 42 record on top of the summary that was handed out, I'd
15:12:31 43 generally do that on the summary and then store it back in
15:12:33 44 my office.
15:12:34 45
15:12:34 46 All right. Now, is it the case that the OPI was concerned
15:12:47 47 to provide telephone intercept material which would assist

15:12:57 1 the investigation in either Petra or Briars, is that
15:13:03 2 something that you can recall?---I'm not sure I understand
15:13:07 3 the question. You're saying that the OPI wanted to share -
15:13:10 4 - -
15:13:10 5
15:13:10 6 Share its TI product?---It may have shared TI product under
15:13:15 7 the joint operation agreement, yeah.
15:13:17 8
15:13:18 9 Do you know why it was decided to enter into a joint
15:13:24 10 investigation with respect to Petra? Do you know what the
15:13:28 11 reason for that was?---At the time there was overlap
15:13:33 12 between what the Victoria Police were investigating, which
15:13:36 13 was the murder of the Hodsons, and what the OPI was
15:13:39 14 investigating in relation to IR 44 and there was concern
15:13:43 15 about, you know, running over the top of each other, and it
15:13:46 16 was felt that, you know, a participation in a Task Force
15:13:53 17 would provide, minimise I guess the risk of that.
15:13:56 18
15:13:57 19 Was there any real need though to have a joint agency
15:14:01 20 agreement with respect to Petra?---If there was a need for
15:14:04 21 the OPI to support the investigation through coercive
15:14:08 22 hearings or through providing things like surveillance
15:14:11 23 which Victoria Police wouldn't know about in general terms
15:14:16 24 then it would have made sense, yeah.
15:14:18 25
15:14:19 26 I wonder if we could have a look at an email chain,
15:14:27 27 IBAC.0020.0001.0061. If we go down to the bottom of that.
15:14:46 28 Just scroll up. We see that there's an email from Vanessa
15:14:52 29 Twigg on 18 June 2007 to John Nolan and some other people,
15:14:59 30 including Greg Carroll and it concerns the TI issue. And
15:15:07 31 she says that she's, "Consulted with Greg and Miriam about
15:15:11 32 the TI issue. They both agree with my interpretation of
15:15:15 33 the TI Act and I attach a memo confirming my advice and
15:15:17 34 attaching an appropriate form to be completed by
15:15:18 35 investigators for a s.68 dissemination". Now, is that a
15:15:24 36 provision of your Act which enabled the dissemination of TI
15:15:27 37 product?---No, that's a provision of the Telephone
15:15:33 38 Interception Act.
15:15:33 39
15:15:34 40 Then if we go up - and this is an email from John Nolan
15:15:45 41 indicating that he'd spoken to you and, "You'd advised me
15:15:49 42 to prepare a joint agency agreement to overcome any
15:15:52 43 legislative impediment to the timely dissemination,
15:15:56 44 communication of information. At first glance this
15:16:00 45 agreement would appear in conflict with our oversight role
15:16:00 46 however this is a unique investigation for a number of
15:16:04 47 reasons" and he there sets out the fact that ESD

15:16:09 1 surveillance may not be an option due to inappropriate
15:16:12 2 associations, et cetera. And then the following is a
15:16:15 3 summary of the verbal agreement between Graham and VicPol.
15:16:20 4 And you'll see there that there's, it seems that you have
15:16:27 5 or proposed an agreement, a verbal agreement, and the terms
15:16:33 6 of it are set out there, do you see that?---Yes.
15:16:35 7
15:16:35 8 "As can be seen above we are not purely over sighting this
15:16:40 9 investigation. I've told Graham that legal does not agree
15:16:45 10 with this course of action and refer to your memo before
15:16:49 11 finalising the agreement. Should you be vehemently opposed
15:16:55 12 to this course of action I'd suggest that you convene a
15:16:57 13 meeting". Now, at least as far as those people are
15:17:00 14 concerned there seems to be some resistance to the idea of
15:17:03 15 a joint agency agreement because it appeared not to be
15:17:06 16 entirely consistent with an oversight role, do you follow
15:17:09 17 that?---Yes.
15:17:10 18
15:17:10 19 And I mean that sort of harks back, doesn't it, to what I
15:17:16 20 was putting to you earlier on, that really you weren't
15:17:20 21 properly over sighting, at least there's a suggestion that
15:17:24 22 you weren't properly over sighting but you were becoming a
15:17:27 23 part of the investigative team which really caused you a
15:17:30 24 great deal of difficulty, I suggest, in properly critiquing
15:17:35 25 what was going on by Victoria Police?---You put that to me
15:17:39 26 earlier, yes.
15:17:40 27
15:17:40 28 And you disagree with that?---Yes.
15:17:42 29
15:17:43 30 If we go up in the email. And then there's another email
15:17:53 31 from Vanessa to John Nolan and, "Discussed this matter with
15:18:00 32 Greg following our discussion. Main objective is to ensure
15:18:03 33 that any TI material goes to VicPol legally. Two reasons
15:18:09 34 for that", and obviously it's got to be legal. "Advice is
35 without a joint agency agreement there's no OPI permitted
15:18:12 36 purpose. For OPI to provide the information to VicPol it
15:18:15 37 would be clearly providing information to assist with their
15:18:18 38 investigation and that's why a s.68 dissemination would be
15:18:21 39 required". So really this is a legal analysis as to how it
15:18:27 40 can be done that information can be shared, do you accept
15:18:30 41 that?---Yes, that's the legal department trying to work out
15:18:36 42 how they would be able to provide TI.
15:18:38 43
15:18:38 44 Then she says, "My only concern in this case is OPI stated
15:18:43 45 objective in its own motion determination to oversight
15:18:46 46 Victoria Police's investigation. In my view this implies
15:18:49 47 that OPI is acting independently from Victoria Police in

15:18:51 1 respect of this investigation". So that's the own motion
15:18:59 2 determination that had been previously enacted with a view
15:19:03 3 to that, to conducting your investigation and she also
15:19:07 4 notes, "Advice from Tony Fitzgerald to Greg Carroll
15:19:12 5 indicating that the OPI should remain separate and
15:19:15 6 independent from the Victoria Police investigation and it's
15:19:18 7 my understanding, Greg can correct me if I'm wrong, but
15:19:21 8 this is why the own motion determination has been framed as
15:19:25 9 it has. I still see an inconsistency between over sighting
15:19:29 10 an investigation and operating jointly in relation to it.
15:19:34 11 If OPI enters into a joint investigation then it becomes
15:19:38 12 jointly responsible with Victoria Police for the success or
15:19:41 13 failure of the investigation, this is the risk which OPI
15:19:44 14 would have to assume and I'm therefore making you aware of
15:19:47 15 it", and ultimately she says it's a question of policy
15:19:52 16 rather than a legal issue, but effectively she says, "It's
15:19:56 17 up to you, our legal view is that there appears to be a
15:20:01 18 problem because" - for the reasons that she sets out. But
15:20:06 19 ultimately it's a matter for you?---Yes, in terms of her
15:20:12 20 advice there that a joint agency agreement would overcome
15:20:16 21 issues with dissemination of TI product, yes, and the
15:20:24 22 earlier comments about "note advice from Tony Fitzgerald to
15:20:28 23 Greg Carroll", yes.

15:20:28 24
15:20:28 25 I think that's the end of that email, Commissioner, and I
15:20:31 26 tender that. If we can just scroll up to make sure.

15:20:39 27
15:20:40 28 #EXHIBIT RC866A - (Confidential) Email chain 18-21/6/07
15:20:41 29 Twigg to Nolan and others.

15:20:41 30
15:20:42 31 #EXHIBIT RC866B - (Redacted version.)

15:20:44 32
15:20:53 33 Thanks Commissioner. Finally, it appears that Mr Carroll
15:20:58 34 buys into the argument and if we could have a look at it
15:21:01 35 just before we have a break, Commissioner.
15:21:11 36 IBAC.0020.0001.0058. Now, again, there's a view which is
15:21:21 37 expressed by Mr Carroll, he points out that there appears
15:21:24 38 to be a misunderstanding of legal's view, advice was simply
15:21:28 39 as follows and he sets out what the advice is. Then he
15:21:31 40 says, "Should there be a joint agency agreement, I've
15:21:34 41 earlier put the view that it would be advantageous for the
42 OPI not to engage in a joint agency agreement and to
15:21:39 43 maintain our independent oversight role in this matter.
15:21:41 44 This is because it will be necessary for OPI to conduct a
15:21:44 45 critical assessment of the entire investigation of the
15:21:47 46 Hodson murders to date. I suspect there will be much about
15:21:50 47 which OPI may be critical. These murders have raised some

15:21:54 1 very tricky questions since day one. OPI led the way with
15:21:58 2 the investigation of IR 44 (VicPol didn't even know that
15:22:04 3 the document was missing). Despite this and the repeated
15:22:05 4 speculation in the media and elsewhere arising out of the
15:22:06 5 Hodson case about police involvement, in this context there
15:22:20 6 are obvious advantages in OPI remaining at arm's length
15:22:23 7 from the whole VicPol operation. OPI should not be seen to
15:22:28 8 have compromised our independence. Having said this it is
15:22:34 9 recognised that there are strong counter arguments".
15:22:37 10 Obviously they're set out. "The OPI wants the Hodson
15:22:40 11 murders to be solved. Clarify murky question of possible
15:22:45 12 police involvement. OPI should be and is prepared to offer
15:22:50 13 assistance. Even if Petra fails to solve the murder of the
15:22:56 14 Hodsons there is every possibility that information
15:22:58 15 directly relevant to the jurisdiction and function of the
15:23:02 16 Director will be obtained along the way. Of course if
15:23:04 17 Petra succeeds we want to be on the podium", do you see
15:23:08 18 that? "Although OPI cannot actively be involved in the
15:23:14 19 investigation and retain its independent oversight role at
15:23:18 20 the same time, the particular circumstances of this case
15:23:22 21 will allow a split of these two functions. A carefully
15:23:25 22 constructed joint agency agreement in relation to the
15:23:32 23 'restarted investigation' to be conducted by Petra will
15:23:36 24 allow active participation by OPI in the investigation from
25 now on without compromising our capacity to assess the
15:23:44 26 investigation to date in a very independent and critical
15:23:46 27 way. Legal has expressed a strategic preference where OPI
15:23:51 28 should be. Again, there's no vehemence in this view, it's
29 merely one perspective. Legal recognises the decision is
15:23:56 30 an operational decision and also recognises the practical
15:23:59 31 advantages of it". Now, have you had the opportunity to
15:24:05 32 read that?---Yes.
15:24:06 33
15:24:07 34 And ultimately effectively legal was saying, "Look, it's a
15:24:12 35 question for you, Mr Ashton", and it was a decision that
15:24:19 36 you made to conduct a joint investigation?---Well
15:24:23 37 ultimately the decision would have rested with the Director
15:24:26 38 but I certainly was keen it be a joint investigation, yes.
15:24:30 39
15:24:31 40 You discussed it, I take it, with Mr Brouwer, is that
15:24:36 41 right?---Well it would have been discussed with Mr Brouwer,
15:24:39 42 yes.
15:24:39 43
15:24:39 44 When you say you would have, do you - - - ?---I don't have
15:24:43 45 a specific recollection of talking to him about it.
15:24:46 46
15:24:47 47 It does appear to be the case that you are the person who

15:24:49 1 is calling the shots in relation to these investigations,
15:24:52 2 would that be fair to say?---I was certainly one of the
15:24:56 3 people, yes.
15:24:56 4
15:24:57 5 Mr Brouwer is the Ombudsman, Victorian Ombudsman and this
15:25:01 6 is an arm of his office but in effect you're the person
15:25:04 7 who's in charge of the investigation I suggest?---He's in
15:25:08 8 charge of the investigation and I'm providing operational
15:25:11 9 direction and advice about its direction, certainly.
15:25:14 10
15:25:14 11 All right?---Absolutely.
15:25:15 12
15:25:15 13 I tender that, Commissioner.
15:25:17 14
15:25:18 15 COMMISSIONER: What is the date of that one, email from - -
15:25:21 16 -
15:25:21 17
15:25:21 18 MR WINNEKE: I think it's 22 June 2007.
15:25:26 19
15:25:29 20 #EXHIBIT RC867A - (Confidential) Email from Carroll to
15:25:30 21 Ashton and others 22/6/07.
15:25:30 22
15:25:31 23 #EXHIBIT RC867B - (Redacted version.)
15:25:38 24
15:25:38 25 COMMISSIONER: All right then, we'll take the midafternoon
15:25:41 26 break.
15:25:41 27
15:25:42 28 MR WINNEKE: Thanks Commissioner.
15:26:03 29
15:26:04 30 (Short adjournment.)
31
15:45:00 32 COMMISSIONER: Yes, Mr Winneke.
33
15:45:02 34 MR WINNEKE: Thanks Commissioner. I'd like to move on to
15:45:05 35 some of the investigations concerning Gobbo which were
15:45:14 36 carried out by Petra with the OPI. It's apparent that
15:45:31 37 prior to the establishment of the joint agency agreement
15:45:36 38 there was a desire on the part of police to have Ms Gobbo
15:45:44 39 spoken to to give her version of what she knew about the
15:45:53 40 Hodson murders. If we have a look at a source management
15:46:02 41 log on 16 May 2007, p.110 of that document - and before we
15:46:15 42 get there. Were you aware that Mr Overland was keen to
15:46:18 43 have Ms Gobbo spoken to?---No, I think our forensic purpose
15:46:24 44 with regards to her examination was around IR 44 still.
45
15:46:32 46 Did you know that Mr Overland was keen for Ms Gobbo to be
15:46:38 47 spoken to by the SDU - just excuse me. Was that something

15:47:06 1 that you were aware of?---No, I don't recall that, no.
2
15:47:10 3 All right. Just let me ask you this. The evidence that we
15:47:28 4 have is that on 24 April 2007 Petra had initially had
15:47:34 5 dealings with Ms Gobbo as a person of interest in relation
15:47:37 6 to corroborating information from Carl Williams that Paul
15:47:42 7 Dale had contacted Williams to assist in securing a hitman
15:47:47 8 to murder the Hodsons, you're aware of that?---Yeah, that
15:47:52 9 was in Williams' statement.
10
15:47:55 11 And he'd made a statement and it was apparent from that
15:47:59 12 statement that Ms Gobbo had been involved in putting Dale
15:48:04 13 in contact with Carl Williams?---Yes.
14
15:48:11 15 There was a draft statement which had been prepared by Carl
15:48:15 16 Williams, I might put it up, VPL.0005.0012.2497. I'm not
15:48:35 17 too sure whether that's an exhibit, Commissioner. Within
15:48:40 18 that document, and perhaps if we go to p.15 of the
15:48:44 19 document. Can we go to p.15. There's reference to
15:48:54 20 Ms Gobbo. You see that there? No, come back the other
15:48:59 21 way, that's it. And Williams is saying that he got a
15:49:07 22 telephone call from barrister Nicola Gobbo, "She put Dale
15:49:11 23 on the phone. Dale sounded pissed. He asked me to go for
15:49:15 24 a drink in Port Melbourne. I told him I was not going and
15:49:18 25 he said he'd come to my place". That was the information
15:49:21 26 which Williams put in his draft statement which was of
15:49:26 27 relevance and subsequently, if we go to p.17, subsequent to
15:49:30 28 that he says he met with Williams - have a look at 17, 22.
15:49:41 29 Third paragraph. "Contact with Nicola Gobbo regularly.
15:49:47 30 This might have been a day or two before meeting with Dale.
15:49:50 31 Gobbo told me to contact Dale. I rang Dale from one of the
15:49:54 32 public telephones near the picture theatres in the
15:49:56 33 Watergardens shopping centre, Taylors Lakes", do you see
15:50:00 34 that?---Yes.
35
15:50:01 36 So that information would have come to your attention at a
15:50:04 37 Task Force update meeting can I suggest, would you agree
15:50:06 38 with that?---It's highly likely, yes.
39
15:50:08 40 If we go to VPL.0100.0046.2264. Commissioner, I'm not too
15:50:21 41 sure whether that version of Mr Williams', the draft
15:50:25 42 version is an exhibit.
43
15:50:29 44 COMMISSIONER: Just making inquiries.
45
15:50:39 46 MR WINNEKE: Perhaps if we just go to the bottom of that
15:50:42 47 statement. There's no jurat on that. Commissioner, I

15:50:51 1 don't know whether we've seen that but I think - - -
2
15:50:53 3 COMMISSIONER: There's an Exhibit 481 that may be it. It
15:50:56 4 was given to O'Brien, the statement?
5
15:50:59 6 MR WINNEKE: No, that was Mr O'Brien's can-say statement
15:51:02 7 that Carl Williams gave him, which I think he said he
15:51:05 8 carried in his back pocket or carried him.
9
15:51:07 10 COMMISSIONER: An undated draft statement of Carl Williams,
15:51:11 11 that's not it?
12
15:51:13 13 MR WINNEKE: No, it's not. I'll tender this one,
15:51:14 14 Commissioner. I don't believe it is.
15:51:17 15
15:51:18 16 #EXHIBIT RC868A - (Confidential) VPL.0005.0012.2497.
15:51:21 17
15:51:21 18 #EXHIBIT RC868B - (Redacted version.)
15:51:24 19
15:51:24 20 Thanks Commissioner. If we can then look at the Petra Task
15:51:35 21 Force update, VPL.0100.0046.2264. I think there might be
15:51:59 22 either a shaded or an unredacted version of that,
15:52:07 23 Commissioner. In any event, can I suggest to you that in
15:52:26 24 that update there's reference to - if we scroll up there's
15:52:32 25 some handwriting on the document. Perhaps if we can just
15:52:47 26 scroll. Can we go to the front page of the document,
15:52:56 27 please. No, that's the wrong one. It's the wrong one.
15:53:03 28 Let's do 61. In any event, can I suggest to you that the
15:53:14 29 note of the relevant meeting indicated there was a
15:53:22 30 statement from Carl Williams. It was hoped that the
15:53:25 31 document would be signed that day and subsequently it was
15:53:27 32 signed, I think it was around April of 2007?---In around
15:53:33 33 that time, yes.
34
15:53:34 35 There was a briefing of legal teams and presumably that was
15:53:37 36 to provide legal advice on the legality of various tactics
15:53:42 37 that were being employed; is that right?---You mean in the
15:53:45 38 follow up to the Williams' statement?
39
15:53:47 40 Yes?---Yes.
41
15:53:48 42 And within the document it appears to contain Luke
15:53:52 43 Cornelius' handwriting and it says, "The Task Force will
15:53:57 44 meet with OPI investigators regarding Dale and Nicola
15:54:03 45 Gobbo, to brief for hearing with respect to Nicola Gobbo".
15:54:07 46 At that stage it was apparent to you that there was going
15:54:12 47 to be a hearing at the OPI, which was the hearing that you

15:54:17 1 had long anticipated concerning Nicola Gobbo, is that fair
15:54:21 2 to say?---Yes.
3
15:54:24 4 And that hearing was going to be conducted by Tony
15:54:28 5 Fitzgerald and carried out at the OPI premises; is that
15:54:31 6 right?---Yes.
7
15:54:36 8 On 14 May 2007, after Carl Williams had pleaded, it was
15:54:48 9 apparent, certainly from the views expressed by Justice
15:54:52 10 King, that Carl Williams wasn't going to make a very good
15:54:55 11 witness, would that be fair to say?---He was a notorious
15:54:59 12 character, yes, a difficult witness.
13
15:55:01 14 She'd described him as, "Unbelievable, even incredible at
15:55:06 15 times. Not only do I consider you are a most
15:55:08 16 unsatisfactory witness, virtually incapable of telling the
15:55:11 17 truth, except for some minor", and there's something
15:55:16 18 redacted and this is in the reasons. So that was a matter,
15:55:20 19 can I suggest, of some concern to your Task Force because
15:55:24 20 it meant that the star witness would need some support in a
15:55:32 21 significant way?---Would definitely require significant
15:55:35 22 corroboration, yes.
23
15:55:38 24 If we can have a look at that document there we'll see that
15:55:44 25 that's in the Petra update. Can we just have a look at the
15:55:50 26 date of that document, please. 14 May 2007. It was
15:56:01 27 apparent that if at all possible he needed to be
15:56:05 28 corroborated, and effectively that's what Petra set out to
15:56:08 29 do, to do what it could to corroborate what Williams had
15:56:13 30 said in his statement?---Correct.
31
15:56:16 32 And part of that involved, I suggest, Nicola Gobbo?---Yes,
15:56:21 33 I would expect at that stage to try and get a statement
15:56:24 34 from her.
35
15:56:26 36 Then I think I said to you before a couple of days after
15:56:29 37 that Mr Overland indicated, at least to his investigators,
15:56:35 38 that he was keen for Ms Gobbo to be spoken to by the SDU.
15:56:42 39 Now, were you aware at that stage that Ms Gobbo was a human
15:56:49 40 source, do you say?---No, it was the July of 2007 that I
15:56:54 41 became aware.
42
15:56:56 43 MR HOLT: Sorry, Commissioner, would it be possible to seek
15:57:00 44 to have the source management log, the document that's
15:57:07 45 currently on the screen, if that could be taken down from
15:57:08 46 the public screening. It's the unredacted version of the
15:57:10 47 source management log and it contains very significant

15:57:12 1 matters. I'm conscious we're in a public hearing, which in
15:57:15 2 fact has, as is entirely proper, members of the public
15:57:20 3 present.
4
15:57:20 5 COMMISSIONER: That's all right, isn't it? Just on
15:57:22 6 counsel's screen and the witness and mine.
7
15:57:25 8 MR WINNEKE: Thanks, Commissioner. Whilst we're at it,
15:57:28 9 Commissioner, what I might do is tender the document that I
15:57:31 10 was taking Mr Ashton to which contained the handwritten
15:57:34 11 notations on it of Luke Cornelius, and that's
15:57:41 12 VPL.0100.0046.2677.
13
15:57:45 14 COMMISSIONER: Was that the Petra Task Force update?
15
15:57:48 16 MR WINNEKE: Yes.
17
15:57:49 18 COMMISSIONER: 14 May 2007, is that it?
19
15:57:53 20 MR WINNEKE: 24 April 07, Commissioner. It's what I was
15:57:54 21 trying to find beforehand.
22
15:57:57 22
15:57:58 23 #EXHIBIT RC869A - (Confidential) Petra Task Force update
15:57:59 24 24/04/07.
25
15:57:59 25
15:58:00 26 #EXHIBIT RC869B - (Redacted version.)
27
15:58:01 27
15:58:02 28 Now then what is apparent is that Mr Overland has approved
15:58:08 29 the SDU speaking to Ms Gobbo regarding her knowledge of the
15:58:12 30 Hodson murders, and you'll see that on the 16th. Overland
15:58:17 31 has approved the SDU speaking to Ms Gobbo, do you see
15:58:20 32 that?---Yes.
33
15:58:22 34 You were keen to have her brought before your coercive
15:58:28 35 hearing. Did you know that at the same time Mr Overland
15:58:33 36 was engaging his investigators, the SDU, to speak to
15:58:42 37 Ms Gobbo?---Not at that stage, no.
38
15:58:44 39 Do you think that if you were conducting a joint
15:58:52 40 investigation it would have been appropriate to let you
15:58:54 41 know that he was going to quiz her or have her quizzed as
15:58:59 42 well?---Well if we were going to do a hearing involving her
15:59:05 43 it would have been good to know that she was a human source
15:59:08 44 for Victoria Police, certainly. Ultimately that was
15:59:11 45 disclosed to me, well, around the time of the hearing, yes.
46
15:59:15 47 Around the time of the hearing. I'll come to that in due

15:59:18 1 course but you say it wasn't until the date of that hearing
15:59:21 2 that you found out that she was a human source?---Yes, that
15:59:23 3 was my best recollection, yes.
4
15:59:26 5 That was your best recollection?---Yes.
6
15:59:32 7 Then on 21 May 2007, it seems following that advice or that
15:59:34 8 authorisation, there's a meeting between Ms Gobbo and a
15:59:37 9 couple of the - or one of the handlers and the controller
15:59:40 10 and it was a debrief, you'll see that on 21 May 2007,
15:59:45 11 regarding knowledge of Paul Dale, relationship with Carl
15:59:47 12 Williams, involvement in the Dublin Street burglary, theft
15:59:50 13 of IRs, intel regarding Adam Ahmed or Azzam Ahmed. Were
16:00:00 14 you ever given the product of that face-to-face
16:00:06 15 meeting?---No, I don't believe I was.
16
16:00:12 17 Were you surprised that you weren't given that?---Well,
16:00:15 18 that's exactly the matter we were wanting to have the
16:00:17 19 hearing on so, yes, I would have liked to have had that.
20
16:00:23 21 Then if we go to 22 May 2000, we see that there's a brief
16:00:31 22 from DDI Ryan re result of - brief to DDI Ryan, rather, re
16:00:39 23 result of Ms Gobbo's debrief on 21 May 2007 and then
16:00:44 24 Mr Ryan was going to brief DC Overland about that, do you
16:00:50 25 see that?---Yes.
26
16:00:53 27 If we go down to the 24th of May, we see at the bottom
16:01:00 28 there that Gobbo, "Source feels guilty re Hodson murders
16:01:05 29 because she told people he was an informer. Offers to meet
16:01:09 30 with Paul Dale to wear a wire". Was that something that
16:01:15 31 had been discussed in the early days of Operation Petra,
16:01:18 32 that is Ms Gobbo may well wear a wire and have a meeting
16:01:22 33 with Mr Dale?---There was a plan for her to - there was a
16:01:28 34 meeting where she wore a wire and that became part of the
16:01:31 35 evidence of - - -
36
16:01:32 37 We understand that. That was much later in 2008?---Yes.
38
16:01:36 39 But what I'm asking you is do you have a recollection that
16:01:39 40 much earlier on, around May of 2007, that was being
16:01:44 41 discussed?---No.
42
16:01:46 43 If we go to 25 May of the source management log, just to
16:01:52 44 follow this through, we see that there was a meeting
16:01:54 45 between Sandy White, Mr Biggin, Overland, briefing
16:02:02 46 regarding the knowledge of - her knowledge of Paul Dale
16:02:06 47 involvement, et cetera. Do you see that?---Yes.

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Update regarding psychological assessment, ongoing viability. And it was agreed that she was viable with respect to Operation Petra investigation and Waters and co. "Also agreed OPI will not subpoena HS re the same." Now, can I ask you, firstly, that appears to refer to your two investigations, or at least your two joint investigations, one Petra and the other Briars, do you accept that, Waters and co?---Yes. Waters, yes.

Do you understand or do you believe that there was an agreement that you'd had with Mr Overland that you would not subpoena Ms Gobbo with respect to Briars, is that something that you discussed?---No, I don't recall discussing that. We did subpoena her in relation to the IR 44 stuff which flowed on from the Dublin Street burglary.

Yes, you did, but was it the case that she was never subpoenaed with respect to Briars?---I don't think ultimately we did subpoena her in Briars, no.

You know that there were compulsory hearings in relation to Briars and certain people were called?---Yes.

Ms Gobbo wasn't. Do you recall that?---Yes.

But do you recall that she was in fact tasked to disseminate information in September of 2007 in relation to that operation, Briars?---No.

Do you say you don't know or is it something that you don't remember?---Well I don't recall her being tasked in relation to it, no, prior to that, prior to July.

Because there's evidence - I'll touch upon it briefly but there's evidence that there was a tasking which Mr Overland was involved in and Ms Gobbo to, in effect, disseminate, put certain information to one of the people who were attending before your OPI hearing. Were you not aware of that?---No, I don't recall that.

Okay. If we have a look at Mr White's diary, VPL.0100.0096.0646, he provides a note of that meeting - - - ?---Sorry, whose diary is it?

This is Sandy White?---Yes.

16:04:49 1 "VPC, Victoria Police Centre, meet with Overland and
16:04:53 2 Superintendent Biggin regarding 3838. Update re human
16:05:04 3 source involvement", do you see that? "IR 44 Paul
16:05:09 4 Dale"?---Yes.
5
16:05:10 6 There's an outline of an exit strategy with the SDU and
16:05:14 7 then outline of viability with respect to Adam Ahmed, Dave
16:05:21 8 Waters, Paul Dale. "The SDU objective was to end the
16:05:26 9 relationship without bitter recriminations either way.
16:05:30 10 Ms Gobbo's objective was to get Mr Mokbel out of her life",
16:05:34 11 do you see that?---Yes.
12
16:05:37 13 It was agreed that she was viable, there'd be ongoing SDU
16:05:41 14 management and the SDU to monitor the OPI with respect, or
16:05:47 15 "re request for Ms Gobbo to be subpoenaed for compulsory
16:05:53 16 hearing. Agreed not necessary as human source willing to
16:05:56 17 assist". Now it appears to be the case that again there
16:06:04 18 was a desire on the part of the SDU not to have Ms Gobbo
16:06:09 19 attend before your hearing because she was otherwise
16:06:13 20 willing to assist. Now is that something that you were
16:06:16 21 aware of, that these were discussions going on?---No, I
16:06:20 22 wasn't aware of that.
23
16:06:23 24 Then if we go to the next entry in the SML, 28 May 2007,
16:06:30 25 SML p.112, on 28 May there's a monthly source review, do
16:06:37 26 you see that? "Update. Source currently involved in the
16:06:43 27 Karam trial", do you see that?---Yes.
28
16:06:47 29 I asked you earlier on about your knowledge of matters
16:06:49 30 concerning Mr Karam and the fact that Ms Gobbo had acted
16:06:55 31 for him and I suggested to you that the Task Force minute
16:07:02 32 that I referred to on 3 November seemed to suggest that you
16:07:05 33 were aware of Ms Gobbo acting for one of the people
16:07:09 34 involved in that Inca matter, do you recall that?---You
16:07:13 35 mean the Driver Task Force minute?
36
16:07:15 37 Sorry, Driver, you're quite right?---Yeah, it was to try
16:07:19 38 and establish whether she was or not, yes.
39
16:07:22 40 You say that was something you learnt, rather than
16:07:25 41 something you contributed to that meeting; is that
16:07:28 42 right?---I was asking that question to try and ascertain
16:07:30 43 what was the connection.
44
16:07:32 45 When did you know about, when did you first learn about
16:07:35 46 Operation Inca? Is that something that you learnt about
16:07:39 47 much earlier on?---Certainly I think prior to 2011 I think

16:07:49 1 I had some knowledge of Inca as an operation.
2
16:07:52 3 Yes?---I don't know where I would have first learnt that
16:07:56 4 though off the top of my head.
5
16:07:59 6 In any event, it seems that there was a risk analysis done
16:08:03 7 as part of this and she remains, that is Gobbo remains high
16:08:08 8 risk by virtue of gangland associates and assistance
16:08:11 9 provided to police regarding the same. She remains high
16:08:15 10 value re corruption issues and murder investigation
16:08:22 11 involving serving and ex police. "Anticipated Mokbel may
16:08:27 12 be arrested in the near future and will attempt to contact
16:08:30 13 Ms Gobbo. The decision will have to be made regarding any
16:08:33 14 source involvement in this". And there was a
16:08:36 15 recommendation about continued management by the SDU being
16:08:40 16 essential, do you see that?---Yes.
17
16:08:42 18 You say you weren't aware at this stage of SDU
16:08:45 19 management?---No.
20
16:08:50 21 The next thing is on 22 June 2007, can I take you to a
16:08:56 22 Briars Task Force update, VPL.0100.0048.1555, do you see
16:09:06 23 that?---Yes.
24
16:09:11 25 If we continue down.
16:09:13 26
16:09:14 27 MR HOLT: Again, Commissioner, I apologise. I wonder if
16:09:18 28 these can come off the screen, they're unredacted documents
16:09:22 29 with sensitive material.
30
16:09:23 31 COMMISSIONER: All right then. Yes, not on the large
16:09:25 32 public screen, thanks.
33
16:09:28 34 MR WINNEKE: It was clear that at that stage there had been
16:09:30 35 a leak of information, do you see that?---Sorry, can you
16:09:34 36 take me to that part you're talking about there?
37
16:09:39 38 Can we go up the page? There we are. Just have a look at
16:09:45 39 that. I won't read it out?---Yes, sure, just give me a
16:09:49 40 look at the paragraph. I'll just have a read of it,
16:09:51 41 please.
42
16:09:51 43 Yes. Is there any possibility if my learned friend
16:10:21 44 appearing for Mr Ashton can see this, Commissioner? It
45 seems appropriate.
46
16:10:24 47 COMMISSIONER: Yes. Can it be on the counsel's at the Bar

16:10:28 1 table?
16:10:28 2
16:10:28 3 MR HOLT: The difficulty, Commissioner, is that the screens
16:10:29 4 are so good that they're completely visible the moment
16:10:30 5 these documents are up, particularly when they're zoomed
16:10:36 6 into.
7
16:10:37 8 MR WINNEKE: I have no objection to my learned friend
16:10:39 9 standing or sitting next to me?---Yes.
10
16:10:49 11 It was clear that the journalist knew about that Petra was
16:10:54 12 working on the Hodsons, correct?---Yes.
13
16:10:57 14 Knew about the investigation of the vampire murders and the
16:11:01 15 targets being Waters, Lalor and Saunders, do you see
16:11:06 16 that?---Yes.
17
16:11:07 18 And the journalist had been speaking to Mr Iddles about
16:11:12 19 it?---Yes.
20
16:11:17 21 I tender that, Commissioner.
22
16:11:23 23 COMMISSIONER: What is it?
24
16:11:24 25 MR WINNEKE: This is a - if we scroll to the top of it,
16:11:26 26 it's a Briars Task Force update of 22 June 2007.
27
16:11:30 28 COMMISSIONER: Thank you.
29
16:11:32 30 MR WINNEKE: To the board of management, Detective
16:11:34 31 Superintendent Rod Wilson.
16:11:36 32
16:11:37 33 #EXHIBIT RC870A - (Confidential) Briars Task Force update
16:11:29 34 22/06/07 to the board of management
16:11:34 35 from DS Rod Wilson.
16:11:39 36
16:11:39 37 #EXHIBIT RC870B - (Redacted version.)
16:11:44 38
16:11:44 39 Obviously you were part of the board of management and
16:11:46 40 would have been provided with this update?---Yeah, I'm not
16:11:49 41 sure exactly if I was at that particular meeting but I did
16:11:53 42 have a knowledge of that journalist making inquiries, yes.
43
16:12:01 44 The note in Mr Cornelius' chronology for the OPI, which has
16:12:09 45 been tendered, on 22 June 2007, same day, was to the effect
16:12:14 46 that the board of management met to consider the briefing
16:12:17 47 from Superintendent Wilson and "Superintendent Wilson

16:12:21 1 briefed us about the media interest", as has been set out
16:12:26 2 in that document. There was also an elusion to a source
16:12:38 3 which had mentioned Person 13. Do you know who Person 13
16:12:41 4 is?
5
16:12:43 6 COMMISSIONER: It's on the list.
7
16:12:45 8 MR WINNEKE: On the list you have in front of you,
16:12:47 9 Mr Ashton?---Yes, yes.
10
16:12:48 11 You know who that is?---Yes.
12
16:12:51 13 And his connection and some potential TPA, Police
16:12:56 14 Association involvement, do you see that, it's on the
16:12:59 15 screen there in front of you?---Yes.
16
16:13:01 17 And it was Superintendent Wilson's assessment that the
16:13:07 18 journalist had been leaked a lot of information and "it was
16:13:10 19 agreed Mr Overland and Mr Ashton would meet with the
16:13:13 20 journalist", do you see that?---Yes.
21
16:13:17 22 Do you recall that meeting, having a meeting with the
16:13:22 23 journalist?---I don't recall the specifics of it but it's
16:13:33 24 ringing a vague bell that there could have been a meeting
16:13:40 25 with a journalist with Overland.
26
16:13:43 27 We don't have any notes of this because this is in your
16:13:46 28 black hole, your diary black hole period, so we don't have
16:13:50 29 any notes on that so we're going on your recollections of
16:13:54 30 that, are we?---I'm not sure if Mr Overland has any notes
16:13:58 31 of it.
32
16:13:59 33 That's been tendered, Commissioner. The next thing I want
16:14:01 34 to show you is the joint Task Force agreement. This is the
16:14:09 35 document, you recall, we had some evidence before about
16:14:14 36 this joint Task Force agreement and the reasons for it and
16:14:18 37 whether or not Legal agreed it was appropriate or
16:14:22 38 otherwise. If we can have a look at this document and it's
16:14:29 39 IBAC.0008.0001.0053. I'm content for it to go up on the
16:14:48 40 screen. This is Petra.
41
16:14:56 42 MR HOLT: I think it can, Commissioner. The difficulty is
16:14:59 43 we often get notice of documents which allows me to look at
16:15:02 44 them in advance but I haven't got them today.
45
16:15:05 46 MR WINNEKE: I apologise to my learned friend.
16:15:06 47

16:15:06 1 MR HOLT: So we can do it. Perhaps we could avoid zooming
16:15:10 2 in, that might assist in the current circumstances.
3
16:15:14 4 COMMISSIONER: Okay, we'll see how we go.
5
16:15:17 6 MR WINNEKE: That is the joint agency agreement which
16:15:21 7 nominated Assistant Director Ashton as the overseer of
16:15:25 8 the Petra matters, do you accept that? If you wish to read
16:15:36 9 it, by all means do so, but can I put to you that that
16:15:40 10 document nominated you as the person with oversight of
16:15:43 11 Petra matters and it also indicated the OPI may conduct OPI
16:15:48 12 hearings to assist Petra investigators?---Yes.
13
16:15:53 14 Right. It was signed by yourself, if we scroll down to the
16:15:59 15 bottom of it, and Mr Overland?---Yes.
16
16:16:03 17 On 25 June 2007, do you see that?---Yes.
18
16:16:13 19 There was a steering committee, if we have a look at 3.1
16:16:18 20 and 3.2, "OPI's oversight of Victoria Police's
16:16:27 21 investigation of the Hodson murders since 16 May. At some
16:16:31 22 future point the OPI will conduct a formal review of the
16:16:34 23 Homicide Squad and the Petra Task Force investigations".
16:16:37 24 Can I stop there and ask you, do you recall at any stage
16:16:40 25 carrying out or preparing a formal review of the
16:16:46 26 investigations of Petra and the Homicide Squad?---No,
16:16:49 27 because by the time I'd - I was still there, that was all
16:16:54 28 still ongoing.
29
16:16:55 30 Do you know whether as you were there and whilst it was
16:17:00 31 still ongoing that oversight or that review was in progress
16:17:06 32 and in the process of being prepared or not?---Well the
16:17:09 33 joint investigation was underway at the time.
34
16:17:13 35 But in terms of the review of the investigations, was that
16:17:19 36 - are you aware that as you were going along a review was
16:17:24 37 being conducted and prepared with a view to publishing
16:17:28 38 finally a review of the investigation, or not?---There was
16:17:32 39 - whilst we were monitoring the progress of it, of the
16:17:34 40 actual Homicide investigation with a view to eventually
16:17:37 41 reporting on it, and so we were monitoring that progress,
16:17:40 42 yes.
43
16:17:41 44 Right. What was being done by way of monitoring it?---My
16:17:44 45 attendance at the steering committee meetings and
16:17:49 46 investigators working collaboratively with the Petra
16:17:55 47 investigators and the Briars investigators.

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3.2, the steering committee is formed and it comprises yourself and you attend all - I'm sorry, it includes yourself and you attend all the steering committee meetings in an oversight capacity; is that right?---Yes.

The steering committee consists of Overland, Cornelius, Gavan Ryan and yourself?---Yes.

And that committee, this is at 4.2, was responsible for a number of things including accountability for the overall conduct of the operation, et cetera, do you see that?---Yes.

Monitoring the operations, okay. Do you say that the committee was involved in actually investigating or carrying out investigations?---No, the actual Task Force was doing the investigation.

Well, what was the reason for having Detective Inspector Gavan Ryan on the steering committee?---He would attend and he would be the person that would update the steering committee as to what the progress was.

Right. So his only reason for being on the committee was to attend and update?---Yes, he was the person who was providing the information about how it was going.

If that's the case why does he need to be on the committee?---Because he needed to be attending as part of the committee to provide the updates.

Right, okay. Whereas Mr Wilson, who updated the Briars Task Force steering committee, wasn't on the committee, he was an investigator who came along and updated. Are you able to explain the difference?---No.

No, all right. It's said at 7.1 that the OPI was an independent oversight body and it would maintain detachment from day-to-day running of the murder investigation?---Yes.

Was that how you understood the situation was?---Yes, we'd have the interest in the IR 44 investigation. We wouldn't be conducting Homicide related investigations.

Did you ever task investigators yourself to carry out what might be regarded as investigative functions, such as

16:20:31 1 following targets at all?--We may well have followed
16:20:35 2 targets as part of the OPI surveillance as a contribution
16:20:39 3 to that Task Force.
4
16:20:40 5 Would that be with respect to IR 44 or a contribution to
16:20:45 6 the investigation?--No, a contribution possibly to the
16:20:48 7 investigation or IR 44 potentially.
8
16:20:51 9 Would you say that tasking someone to follow Ms Gobbo in
16:20:56 10 2007 could probably not be in relation to how, your
16:21:04 11 investigation into how IR 44 escaped from police?---It
16:21:08 12 could have been. I don't know whether we - I don't recall
16:21:10 13 whether we surveilled her or not.
14
16:21:12 15 All right. Now, on 2 July 2007 there's a Petra Task Force
16:21:18 16 update, VPL.0100.0020.5275, p.12.
17
16:21:33 18 COMMISSIONER: I think the previous document, the joint
16:21:36 19 agency agreement, 25 June 07, Operation Oboe and Operation
16:21:42 20 Petra, 871A and B. Did you want to tender that, I presume?
21
16:21:51 22 MR WINNEKE: Yes, I do, Commissioner.
16:21:52 23
16:21:52 24 #EXHIBIT RC871A - (Confidential) Joint agency agreement
16:21:38 25 25/06/07, Operation Oboe and Operation
16:21:54 26 Petra.
16:21:54 27
16:21:54 28 #EXHIBIT RC871B - (Redacted version.)
16:21:57 29
16:21:57 30 I think we better have this document down.
31
16:22:00 32 COMMISSIONER: Off the screens other than yours.
33
16:22:02 34 MR WINNEKE: Yes. On 2 July there was an update,
16:22:11 35 apparently investigators had met with Abby Haynes in late
16:22:16 36 June 2007 and she'd been told two weeks prior to the
16:22:19 37 murders that the Hodsons would be killed. Did you receive
16:22:21 38 that information, do you recall?--Sorry, where's that on
16:22:31 39 the screen - I can't - I'm having trouble finding that?
40
16:22:36 41 Page 12 of the document. You'll need to scroll it. 2
16:22:53 42 July. Look, it may well be that - keep going, keep going.
16:23:04 43 2 July 2007. If you go to p.13. Keep going. You've gone
16:23:31 44 past. Keep going. That's it, right. Just read that entry
16:23:43 45 there. Was that information provided to the Petra Task
16:24:02 46 Force update on 2 July?--Sorry, I'll just finish reading
16:24:08 47 it. Sorry. Yeah, I think it was, yep.

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If we then go to 9 July 2007, VPL.0100.0046.2695. 9 July 2007. This is a document which is a Petra Task Force weekly update which apparently contains Mr Cornelius' handwriting, and it attaches an email invitation with handwriting on it and indicates a meeting attended by Cornelius, Ashton, Ryan, Hollowood and Blayney. Just scroll down. Keep going. There's the email. That is the sort of document that you would receive inviting you to a meeting at D7, which is Mr Overland's office; is that right?---Yes, by the look of that.

It indicates that there's a recurrent weekly meeting of the Task Force from 4.30 to 5.30 pm?---Normally the Task Force would be held late on a Monday, yep.

And it would be either before or after the Briars Task Force, are you able to say?---I think early on they were sort of around the same time, back-to-back. But then I think they separated a bit later on.

What you know, because of the information that you were told on 2 July 2007 with respect to Abby Haynes providing an alibi for herself and being informed by Mr Ahmed that the Hodsons had been killed, on one view was that Mr Ahmed had information prior to the murder that the murders - the murder was going to take place?---Could have been, yes.

Correct?---Yes.

And that's something that you were aware of at the time as an investigator?---By virtue of that update, yes.

And if we go to 9 July 2007, if we just have a look at the information. You will see that on that night Ms Gobbo was out with Mr Ahmed on the night of the murders. Perhaps I should make this clear. Were you told that that in fact was the case, that Mr Ahmed and Ms Gobbo were out on the night?---No, I don't recall knowing that information.

You don't?---No.

All right. I tender that, Commissioner

#EXHIBIT RC872A - (Confidential) Petra weekly Task Force update 9/7/07.

16:27:46 1 #EXHIBIT RC872B - (Redacted version.)
16:27:49 2
16:27:49 3 Thanks Commissioner.
4
16:28:00 5 COMMISSIONER: Did you also want to tender the Petra Task
16:28:02 6 Force update of 2 July 07, or was that already tendered?
7
16:28:06 8 MR WINNEKE: No, I do want to tender that, Commissioner.
16:28:09 9
16:28:10 10 #EXHIBIT RC873A - (Confidential) Petra Task Force update of
16:28:03 11 2/07/07.
16:28:11 12
16:28:12 13 #EXHIBIT RC873B - (Redacted version.)
16:28:14 14
16:28:15 15 Whilst we're tendering, there are a couple of other
16:28:18 16 documents that I haven't tendered. One is the Briars
16:28:27 17 contacts with Linnell and Ashby chronology prepared
16:28:33 18 following briefing with Graham Ashton on 14 September 2007
16:28:34 19 for the information of the OPI, that's the Cornelius
16:28:37 20 chronology.
16:28:41 21
16:28:41 22 #EXHIBIT RC874A - (Confidential) Briars contacts with
16:28:28 23 Linnell and Ashby chronology prepared
16:28:33 24 following briefing with Graham Ashton on
16:28:34 25 14/09/07 for the information of the OPI.
16:28:43 26
16:28:44 27 #EXHIBIT RC874B - (Redacted version.)
16:28:46 28
16:28:46 29 The diary entry of John Nolan dated 20 February 2007.
16:28:51 30
16:28:51 31 #EXHIBIT RC875A - (Confidential) Diary entry of John Nolan
16:28:48 32 dated 20/02/07.
16:28:54 33
16:28:55 34 #EXHIBIT RC875B - (Redacted version.)
16:28:58 35
16:28:58 36 Petra Task Force update of 7 May 2007.
16:29:05 37
16:29:06 38 #EXHIBIT RC876A - (Confidential) Petra Task Force update
16:29:00 39 7/05/07.
16:29:07 40
16:29:08 41 #EXHIBIT RC876B - (Redacted version.)
16:29:10 42
16:29:10 43 And the Operation Khadi final report, the OPI version,
16:29:15 44 which is IBAC.0008.0001.0126.
16:29:23 45
16:29:24 46 #EXHIBIT RC877A - (Confidential) IBAC.0008.0001.0126.
16:29:25 47

16:29:25 1 #EXHIBIT RC877B - (Redacted version.)
16:29:27 2
16:29:27 3 Thanks Commissioner. It's now 4.30, or 30 seconds off. I
16:29:36 4 was going move on to the next entry but I'm - - -
5
16:29:39 6 COMMISSIONER: All right. We probably should leave then.
16:29:41 7 I thought there were a couple of applications for leave
16:29:44 8 that have been hanging around all day that need to be made.
16:29:54 9
16:29:56 10 MS DWYER: Yes, Commissioner. I make an application for
16:29:58 11 leave to appear on behalf of John Higgs for this witness.
12
16:30:02 13 COMMISSIONER: Yes, Ms Dwyer. I understand that's
16:30:03 14 supported by counsel assisting.
15
16:30:05 16 MR WINNEKE: Yes, it is, Commissioner.
16:30:06 17
16:30:07 18 COMMISSIONER: It's relevant, yes. Leave granted. And I
16:30:08 19 also understood that there was a similar application for
16:30:10 20 Pasquale Barbaro, although no one's here for him at the
16:30:14 21 moment.
16:30:14 22
16:30:15 23 MS DWYER: Yes, counsel has left.
24
16:30:17 25 COMMISSIONER: Again, you'd support that application?
26
16:30:20 27 MR WINNEKE: Commissioner, I don't oppose the application
16:30:22 28 on behalf of Mr Barbaro, no.
29
16:30:27 30 COMMISSIONER: There seems to be some relevance. All
16:30:29 31 right, so I'll grant leave also for Mr Barbaro. Of course
16:30:32 32 that is just giving leave to appear, it's not leave to
16:30:34 33 cross-examine.
34
16:30:35 35 MR WINNEKE: Yes, Commissioner. If there's any
16:30:41 36 cross-examination sought we would certainly seek to be
16:30:43 37 advised of it and an application made in accordance with
16:30:45 38 the direction.
39
16:30:46 40 COMMISSIONER: Yes. All right then. So we will adjourn
16:30:48 41 until 9.30 tomorrow morning.
16:31:10 42
16:31:10 43 <(THE WITNESS WITHDREW)
16:31:12 44
16:31:14 45 ADJOURNED UNTIL TUESDAY 10 DECEMBER 2019
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